

## **The complaint**

Miss P complains about Santander UK Plc.

She says that she has been the victim of a scam and would like Santander to refund her.

## **What happened**

In October 2020 Miss P was discussing her financial situation with a client who worked in sales for a company I will refer to as HSG. She agreed to invest £10,000 and was promised a return of 15% per year.

However, Miss P now says that she was scammed, and that HSG was operating a Ponzi scheme.

She says that Santander should have questioned her about the payment at the time it was made, and that this would have uncovered the scam.

Miss P, via a third party, made a complaint o Santander about what had happened, but it wasn't upheld. So, the complaint was brought to this Service.

Our Investigator looked into things, but also didn't think that the complaint should be upheld. They said that there wasn't enough evidence to say that HSG was operating as a scam, and so Santander didn't need to refund Miss P the money she invested.

Miss P and her third party asked for an Ombudsman to make a final decision, so the complaint has been passed to me.

## **What I've decided – and why**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Having done so, I have decided to not uphold this complaint. I know this will be disappointing for Miss P, so I'll explain why.

It isn't in dispute that Miss P authorised the payment she made to HSG. Because of this the starting position – in line with the Payment Services Regulations (PSR's) 2017 – is that she is liable for the transaction.

But she also says that she has been the victim of an authorised push payment (APP) scam.

Santander has signed up to the voluntary Lending Standard's Board Contingent Reimbursement Model Code (CRM Code), which provides additional protection to scam victims. Under the CRM Code, the starting principle is that a firm should reimburse a customer who is the victim of an APP scam (except in limited circumstances). But the CRM Code only applies if the definition of an APP scam, as set out in it, is met.

I have set out the definition of an APP scam as set out in the CRM Code below:

... a transfer of funds executed across Faster Payments...where:

- (i) The Customer intended to transfer funds to another person, but was instead deceived into transferring the funds to a different person; or
- (ii) The Customer transferred funds to another person for what they believed were legitimate purposes, but which were in fact fraudulent.

I've therefore considered whether the payment Miss P made to HSG falls under the scope of an APP scam as set out above. Having done so, I don't think it does. I'll explain why in more detail.

In order to determine if Miss P has been the victim of a scam, I have to consider if her intended purpose for the payments was legitimate, whether the intended purposes Miss P and HSG were broadly aligned and, if not, whether this was the result of dishonest deception on the part of the HSG.

Based on the evidence available to me, it appears Miss P was intending for the funds to be invested in specific building projects around the country. She then expected to receive regular returns on her investment of around 15%. Although Miss P has not provided the paperwork that she received from HSG, I am aware that HSG provided to investors prior to making their payments appeared to be professional and detailed, and HSG was listed on Companies House as being incorporated since 2011. So, I see no reason why Miss P would not have thought this was a legitimate investment.

I've gone on to consider whether HSG's intended purpose for the payments aligned with what Miss P intended.

I've seen evidence that three building projects were completed by HSG, it also had other projects ongoing, however these had to be sold to other developers after they entered into financial difficulty. On balance, I think this shows HSG was a legitimate company involved in legitimate building projects, and I think it's unlikely a scam company would have completed three large scale building projects at significant cost in order to entice more funds from investors.

Miss P's representatives have said HSG paid unregulated introducers a high level of commission which in turn made the level of interest offered to investors unlikely. They felt that a credit event was inevitable in the circumstances. However, whether or not unregulated investors were used to introduce the investment does not indicate that HSG set out to defraud investors of their funds, with no intention to invest the funds into building projects. And while I have not seen evidence of the levels of commission paid to introducers, I don't think there is a correlation between the level of commission and Miss P being the victim of a scam in the circumstances.

It should be noted that the liquidator for HSG has not provided any evidence to suggest it was acting fraudulently or operating a Ponzi scheme. They are still in the process of investigating a significant number of transactions made from HSG to various subsidiary companies, due to the way in which the HSG network was set up. However, at the moment there is no indication that these transactions were made with the intention of hiding these funds and not using them towards development projects.

Miss P's representatives have also highlighted that HSG had not filed accounts since 2018, before Miss P made his investment. And they felt Santander should reasonably have picked up on this fact before processing the payments in question and revealed what they feel is a scam. While it appears HSG has not managed its finances correctly, I don't think this therefore means they were conducting a scam or that they intended to scam investors at that time. During this period in question, HSG were completing development projects around the country, and I think this highlights that they intended to use customer's investments in these development projects.

On balance, I think HSG's intended purpose for the funds aligned with Miss P's and nothing I have seen indicates to me that HSG intended to defraud her. Instead, I think it's more likely this was a failed investment, So I don't think it meets the definition of an APP scam. And I think Santander acted reasonably when it treated the case as a civil dispute.

It is possible that further evidence may come to light at a later date, which may indicate HSG was operating a scam. Should such evidence come to light, then Miss P can complain to Santander again, and refer the matter to this office, should she not be happy with the outcome.

### **My final decision**

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss P to accept or reject my decision before 31 July 2025.

Claire Pugh  
**Ombudsman**