

## The complaint

Ms F complains that Santander UK Plc (Santander) won't refund money she lost in an investment scam.

## What happened

*What Ms F says:*

Ms F was looking to add to her income, which had been depleted by the COVID pandemic. She saw one of her Facebook contacts had apparently been successful in investing in crypto currency. The contact put her in touch with an account manager who was said to work for an investment firm (which I call 'firm A'). Ms F was aware there was a lot of positive publicity about crypto investment and believed this was a good way to make money. She was inexperienced with such investments.

The manager gained her trust and appeared professional and knowledgeable. She wasn't at first promised a return that was too good to be true.

The manager explained how she could invest money and gave her help to open an account in Ms F's name with a crypto exchange. Ms F made transfers from her Santander account to the crypto exchange as shown:

	Date of authorisation	Payment	Amount
1	9 February 2024	Debit card to crypto wallet	£1,000
2	11 February 2024	Debit card to crypto wallet	£1,000
3	11 February 2024	Debit card to crypto wallet	£60
4	13 February 2024	Debit card to crypto wallet	£2,000
5	13 February 2024	Debit card to crypto wallet	£1,000*
6	14 February 2024	Debit card to crypto wallet	£2,500*
7	14 February 2024	Debit card to crypto wallet	£2,500
	<b>Total</b>		<b>£10,060</b>

*\*Intervention by Santander*

Ms F then transferred the funds from the crypto exchange to the scammer firm A.

Ms F realised this was a scam when she wanted to make a withdrawal and was told she had to pay a fee of £4,000.

As a result of the scam, Ms F has lost her savings and is worried she doesn't have enough money to cope with the rising cost of living. She suffers sleepless nights and the scam is constantly on her mind. She struggles to trust others.

Ms F says Santander should've done more to protect her. She says the payments were unusual and to a crypto exchange. She says the bank should refund the money plus 8% interest and compensation of £300.

*What Santander said:*

Santander didn't refund any money. The bank said the payments were made with a debit card and therefore weren't covered by the Contingent Reimbursement Model (CRM) code.

*Our investigation so far:*

Ms F brought her complaint to us. Our investigator upheld it and said Santander should refund the money from the payment of £2,000 on 13 February 2024. He said Santander did intervene in the payments for £2,500 and £1,000, but the interventions weren't good enough.

He said Santander should've asked more open questions and if they had, the scam would've been uncovered and stopped.

But he also said Ms F should be responsible for 50% of the refund as she could've done more to protect herself:

- Ms F says she checked the FCA register for the scam firm A and found it wasn't recorded. But there were firms with similar names and were involved with 'bitcoin mining' – the service purported to be provided by firm A. And there were warnings about such trading; and how such scams work.
- It wasn't clear how Ms F came to invest with firm A.
- Ms F was asked for the crypto exchange password and username and gave it to the scammers.
- On the chats with the scammers, Ms F was told she could make £25,000 on an investment of £2,500 – this was too good to be true.

Ms F accepted this outcome, but Santander didn't. The bank argued:

- The losses arose when the money was transferred from the crypto exchange, not when the payments were made from Santander. It is the crypto exchange which should bear responsibility for Ms F's losses, not Santander.
- Santander had no visibility for what happened to the money once it left the bank.
- Santander's intervention on 14 February 2024 was sufficient. On the call, Ms F was told about the risks of investing in crypto and a warning was read out. Ms F confirmed she wanted to go ahead.
- Therefore, any further intervention wouldn't have prevented the scam.
- Santander cannot be expected to intervene in every payment to a crypto exchange.

Our investigator discussed his view with Santander, but no agreement could be reached, and so the case has come to me to make a final decision.

**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.

I'm sorry to hear that Ms F has lost money in a cruel scam. It's not in question that she authorised and consented to the payments in this case. So although she didn't intend for the money to go to a scammer, she is presumed to be liable for the loss in the first instance.

So, in broad terms, the starting position at law is that a bank is expected to process payments and withdrawals that a customer authorises it to make, in accordance with the Payment Services Regulations and the terms and conditions of the customer's account. And I have taken that into account when deciding what is fair and reasonable in this case.

But that is not the end of the story. Taking into account the law, regulators' rules and guidance, relevant codes of practice and what I consider to have been good industry practice at the time, I consider Santander should fairly and reasonably:

- Have been monitoring accounts and any payments made or received to counter various risks, including anti-money laundering, countering the financing of terrorism, and preventing fraud and scams.
- Have had systems in place to look out for unusual transactions or other signs that might indicate that its customers were at risk of fraud (among other things). This is particularly so given the increase in sophisticated fraud and scams in recent years, which banks are generally more familiar with than the average customer.
- In some circumstances, irrespective of the payment channel used, have taken additional steps, or make additional checks, before processing a payment, or in some cases declined to make a payment altogether, to help protect customers from the possibility of financial harm from fraud.

I need to decide whether Santander acted fairly and reasonably in its dealings with Ms F when she made the payments, or whether it should have done more than it did. I have considered the position carefully.

The Lending Standards Board Contingent Reimbursement Model Code (CRM Code) provides for refunds in certain circumstances when a scam takes place. But – it doesn't apply in this case. That is because it applies to faster payments made to another UK beneficiary – and in this case, the payments were made by debit card and to Ms F's own account with firm A.

That said, that doesn't mean to say that Ms F cannot get a refund – and so I disagree with what Santander said in its final response.

The first consideration here is: if the payments were of a sufficient size and were out of character with how Ms F normally used her account – then we would expect Santander to have intervened and spoken to her.

I looked at Ms F's account for the six months leading up to the scam, and it's fair to say that the payments were unusual compared to the way in which she used her account – which was to make day to day expenditures of low value. She made faster payments and debit card payments up to about £500. So it's fair to say the scam payments were unusual for her to make.

That said, there's a balance to be made: Santander has certain duties to be alert to fraud and scams and to act in their customers' best interests, but they can't be involved in every

transaction as this would cause unnecessary disruption to legitimate payments. In this case, I think Santander acted reasonably in processing the first three payments.

But by the fourth payment, Ms F had by then made four payments in four days and for over £4,000 – and to a known crypto exchange, which payments are known to carry a higher probability of a scam. Putting this together, there were signs a possible scam was taking place.

So, I think it's reasonable that Santander intervened in the fourth payment.

Santander did intervene in the fifth and sixth payments for £1,000 and £2,500 and I listened to the calls. If those interventions were effective, then I might be persuaded that the bank acted reasonably.

But like our investigator, I don't think the intervention calls went far enough – they didn't ask Ms F any open and probing questions, and just read out warning statements on both occasions.

The statements were scripted and said (in summary) 'this could be a scam if any of these apply....(if you've) been asked to set up a crypto wallet and if someone is connected to your account....been promised returns that are too good to be true and ensure you've checked the FCA website to ensure the investment firm is regulated'.

I also heard on the first intervention call on 13 February 2024 – the call handler could see the prior crypto payments in the past few days. So, it's reasonable that he could have picked up on that and asked why so many crypto payments were being made in a short space of time.

Santander was the expert in such matters and if they'd intervened, held the payments and contacted Ms F we would have expected them to ask open and probing questions such as:

- Why are you making the payments?
- Who to?
- For what purpose?
- How did you hear about the investment?
- How were you contacted about it?
- Where did the money come from that you're investing?
- Where is the money going to from your crypto wallet?
- What do you know about crypto investing?
- Have you made crypto investments before?
- How were you given the bank account details where the money was to be paid to?
- Have you given control on your devices to anyone else?

Santander would've found out that Ms F had made the contact via social media; and was being guided by an unknown 'account manager' She had no experience of investing. And she wasn't aware of the end investment to where the money was being sent. All of these aspects are typical of a crypto investment scam and it would likely have been uncovered, and prevented at that point.

And - we expect that from 1 January 2023, firms ought to recognise that cryptocurrency related transactions carry an elevated risk of the likelihood of the transaction being related to a fraud or scam. This is because, by this time many leading firms had appreciated this risk and placed blocks or restrictions on cryptocurrency related transactions, and there had been widespread coverage in the media about the increase in losses to cryptocurrency scams.

I'm also not persuaded that the fact the payments were going to Ms F's own account and so appeared to be going somewhere safe and within her control should have satisfied Santander that she wasn't at risk of harm. This is because by January 2019, firms like Santander had, or ought to have had, a good enough understanding of how these scams work – including that a customer often moves money to an account in their own name before moving it on again to the scammer - to have been able to identify the risk of harm from fraud.

So I agree that Santander should be liable in the first instance to refund the last four payments – totalling £8,000.

#### *Contributory Negligence:*

But that's not the end of the story here. I also considered whether Ms F could've done more to protect herself and whether she should therefore reasonably share some of her losses.

In thinking about this - we apply a test of what we would expect a reasonable person to do in the circumstances. We don't (for example) apply a test of what we would expect a finance professional to do.

And I think she should be partly responsible. I say that as:

- She sent over £10,000 to someone who contacted her via online social media and based on online chats – this wasn't a sensible thing to do.
- I saw no evidence of any investment documents or contracts – or who firm A was.
- While Ms F says she wasn't promised returns that were too good to be true, I saw references in the chats of at least ten times her investment being possible as a return – this was too good to be true to any reasonable person.
- There's evidence she gave her crypto wallet password/passcode/ username to the scammer.

So, I agree that it is fair that Ms F bears 50% of her losses.

#### *Recovery:*

We expect firms to quickly attempt to recover funds from recipient banks when a scam takes place. I looked at whether Santander took the necessary steps in contacting the bank that received the funds – in an effort to recover the lost money.

And here, the funds went from the bank account to a crypto currency merchant and the loss occurred when crypto was then forwarded to the scammers. In this case, as the funds had already been forwarded on in the form of cryptocurrency there wasn't likely to be anything to recover.

#### **Putting things right**

Santander must refund 50% of £8,000 - £4,000, plus interest at 8% per annum simple.

#### **My final decision**

I uphold this complaint. Santander UK Plc must:

- Refund 50% of payments four to seven - £4,000, plus interest at 8% per annum simple from the date of the payments to the date of settlement.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms F to accept or reject my decision before 22 April 2025.

Martin Lord  
**Ombudsman**