

The complaint

Mr A complains that Santander UK Plc didn't protect him from an investment scam.

Mr A is being supported in making his complaint by a representative. But for ease, I'll only refer to Mr A in this decision.

What happened

Mr A explains that having recently sold his business and looking for ways to supplement his income, a family friend introduced him to an investment in forex trading with a company (which I'll refer to here as 'H'). Mr A said his friend was already investing in 'H' and had received returns.

Mr A understood the terms of the investment to be monthly returns of 5%, with the capital returned in 12 months. He's explained that he researched 'H' and its directors and;

"established they had been trading for several years and registered with companies house".

Other companies (which I'll refer to here as 'P' and 'M') facilitated the transfer of the funds Mr A was investing in 'H'.

On 1 January 2019 Mr A signed a 'letter of intent' with 'P' confirming the investment amount and that he wanted to take the monthly returns as opposed to re-investing them. On 14 January 2019 Mr A entered into a loan agreement with 'H' for the sum of £30,000.

Mr A made the following faster payment in branch as part of the investment:

Date	Amount
21 January 2019	£30,000

Mr A doesn't recall Santander providing him with any warnings prior to the payment being processed, and I've seen no evidence to suggest it did.

Mr A received two monthly returns totalling £3,000. His outstanding loss is therefore £27,000.

'H' and 'P' went into liquidation in June 2019 and March 2020 respectively.

On 20 September 2023 Mr A made a complaint to Santander. In short, he said he'd been the victim of a scam, and that Santander hadn't done enough to protect him. Mr A therefore held Santander responsible for his loss. He wanted Santander to refund him the £27,000 together with 8% interest and £1,000 for the distress and inconvenience caused.

In summary, Santander said this was a civil matter and suggested that Mr A liaise with the liquidator.

Mr A referred his complaint to the Financial Ombudsman.

One of our Investigators considered the complaint but didn't uphold it. Essentially, he accepted that Mr A had been the victim of a scam and that Santander should've asked him about the purpose of the £30,000 payment before processing it. But he made the point that Santander couldn't provide investment advice. And given there was no adverse information about 'H' or 'P' available at that time, and because the investment had been introduced to

Mr A by a trusted friend who was already investing in 'H' – our Investigator didn't think further questioning by Santander would've given it, or Mr A, any obvious cause for concern.

Our Investigator also thought there was no reasonable prospect of Santander being able to recover the lost funds.

Mr A didn't agree. In summary, he said Santander should've warned him about the significant risks associated with unregulated investments – and if it had, he says he would've carried out further checks and would've had a clearer understanding of the risks involved.

Mr A agreed with our Investigator that Santander should've questioned him about the payment, particularly as it was made to an account with 'P', which he said was a Santander account. And that this account was frozen by Santander in June/July 2018. So, Mr A said Santander must've had concerns given it had previously frozen 'P's account – and that this should've triggered further checks when he made his payment in January 2019.

Mr A added that having been introduced to 'H' by a friend should've put Santander on alert that he may not have critically evaluated his decision to invest. And that having input from a trusted third party, his bank, about investment scams would've likely persuaded him to make further checks and question his decision to proceed.

Mr A also said that Santander should've asked to see paperwork about the investment, at which point it would've seen the promised high rate of return was unrealistic.

I've been asked to review everything afresh and reach 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.

Having done so, I've decided not to uphold this complaint. I know this is not the answer Mr A was hoping for and so this will come as a disappointment. I'm really sorry to hear about the situation he's found himself in, and I can understand why he'd want to do all he can to recover the money he lost. But I need to decide whether Santander can fairly and reasonably be held responsible for Mr A's loss. Overall, I've decided that it can't be. I'll explain why.

But first, I would like to say at the outset that I have considered this case on its own merits and have summarised it in far less detail than the parties involved. I want to stress that no discourtesy is intended by this. It's simply because my findings focus on what I consider to be the central issues in this complaint – that being whether Santander could've prevented Mr A's loss.

Following a court hearing in July 2020, it's now accepted that Mr A has likely been the victim of a scam. But the transactions he made towards the investment were authorised payments. So, Mr A is presumed liable for the loss in the first instance.

However, I consider that as a matter of good industry practice at the time (and now) that a bank, such as Santander, ought to have taken steps to intervene prior to processing a payment instruction where it had grounds to suspect a payment might be connected to a fraud or a scam. Any such intervention should've been in proportion to the level of risk perceived.

The question then arises whether Santander ought reasonably to have held such suspicions or concerns in relation to Mr A's payment - and if so, what might've been expected from a proportionate intervention.

So, taking all of this into account, I need to decide if Santander acted fairly and reasonably in its dealings with Mr A when he made the payment. Specifically, whether it should've done

more than it did before processing it – and if it had, would that have made a difference. I also need to decide if Santander could've reasonably recovered the lost funds.

Where there is an interaction between a customer and a bank before a high value payment is processed, as there was here, I'd expect the bank to take reasonable steps to understand the circumstances of that payment. And so arguably, there was justification here for an intervention by Santander prior to processing Mr A's £30,000.

But for me to find it fair and reasonable that Santander should refund Mr A requires more than a finding that Santander ought to have intervened.

I would need to find not only that Santander failed to intervene where it ought reasonably to have done so - but crucially I'd need to find that but for this failure the subsequent loss would've been avoided.

That latter element concerns causation. A proportionate intervention will not always result in the prevention of a payment. And if I find it more likely than not that such a proportionate intervention by Santander wouldn't have revealed the £30,000 payment was part of a fraud or scam, then I couldn't fairly hold it liable for not having prevented it from being made.

In thinking about this, I've considered what a proportionate intervention by Santander at the relevant time would have constituted, and then what I think the result of such an intervention would most likely have been.

To reiterate, Santander's primary obligation was to carry out Mr A's instruction without delay. It wasn't to concern itself with the wisdom or risks of his payment decision.

In particular, Santander didn't have any specific obligation to step in when it received a payment instruction to protect its customers from potentially risky investments. The investment in 'H' wasn't an investment Santander was recommending or even endorsing. And so, I don't think it would've been reasonable for Santander to have asked to see all the paperwork relating to the investment unless there were serious concerns around the legitimacy of the payment that warranted further investigation - which I'm not persuaded there was here.

Santander's role here was to make the payment that Mr A had told it to make. Mr A had already decided on that investment. And I find that Santander couldn't have considered the suitability or unsuitability of a third-party investment product without itself assessing Mr A's circumstances, investment needs and financial goals.

Taking such steps to assess suitability without an explicit request from Mr A (which there was not here) would have gone far beyond the scope of what I could reasonably expect of Santander in any proportionate response to a correctly authorised payment instruction from its customers.

That said, I think it would have been proportionate here for Santander, as a matter of good industry practice, to have taken steps to establish more information about the £30,000 payment.

What matters here is what those steps might be expected to have uncovered at the time. While there may now be significant concerns about the operation of 'H', and the legitimacy of the investment, I must consider what Santander could reasonably have established during a proportionate enquiry to Mr A about his payment back in January 2019. I cannot apply the benefit of hindsight to this finding.

Both 'H' and 'P' were genuine companies and there was no negative information about 'H' in the public domain until *after* it went into liquidation (June 2019). Having carefully reviewed all the material Mr A has provided about 'H' and 'P', it appears that allegations that 'H' was operating as a scam *only* came to light during the liquidation process which included a court hearing in 2020. As such, this correspondence or information couldn't have been accessed by either Santander or Mr A at the time of the January 2019 payment.

I think it's also likely Mr A would've told Santander that he had documents from 'H' and 'P' confirming the terms of the investment, together with a loan agreement, which at the time all appeared entirely genuine. And that there were several documents from 'H' about how the investment worked and how the funds were protected. This included reference to the security provided by an FCA regulated liquidity provider 'H' used, which undoubtedly would've provided Mr A, and Santander, with assurances his funds were safe.

Further, Mr A has said Santander should've warned him about the risks of unregulated investments. But 'P' made it clear in its documentation that:

"It is possible to lose more than your initial investment. Profits and returns are not guaranteed".

The information from 'P' further states:

"Before you decide to deal with ['P'] ... you should be aware of all of the associated risks and carefully consider your objectives, financial situation, needs and level of experience. ... ['P'] recommends that you seek advice from a separate financial advisor. ... you could sustain a total loss of your deposited funds and therefore, you should not speculate with capital that you cannot afford to lose".

So, it's likely Mr A had been made fully aware of the risks involved in the investment, which, in my opinion, makes it less likely that any warning Santander might've provided to Mr A about unregulated investments would've resonated with him, as he now claims. But even if Mr A *had* been prompted by Santander to carry out more checks into 'H' or 'P' – I think it's very unlikely he'd have found anything of concern.

I've also thought about Mr A's point that he believes Santander must've had concerns about the operations of 'P' - given it froze 'P's account back in 2018.

Firstly, the payment was made to 'M' (a payment processor for 'P'), and the investment was with 'H'. So, I can't say with any degree of certainty that it would've been apparent to Santander that 'P' was the intended beneficiary here.

Further to that, even if 'P' *had* been identifiable, information about any concerns Santander *might've* had about 'P's account isn't something that would've reasonably been known or available to the person Mr A would've been dealing with at the time of any intervention about his outgoing £30,000 payment. So, even if Santander had concerns about 'P's account activity (something I make no finding on), I don't think it's a reasonable expectation for Santander to have made that available to its frontline staff and to have shared information about another customer with customers wishing to make a payment.

In summary, I've considered everything submitted and the arguments made, but while there may now be concerns about the legitimacy of 'H' and 'P', everything I've seen indicates that those concerns only began to surface in the public domain *after* the £30,000 payment was made by Mr A.

I've thought next about how Mr A found out about the investment. Mr A was introduced to 'H' by a family friend. There's no suggestion that Mr A sought any financial advice.

Had Santander asked Mr A who'd advised him about the investment, then the involvement of that friend would've likely come to light at the time. But this type of unregulated investment could be entered into without obtaining regulated financial advice, which seems to have been the case here.

So, the status of the investment and how Mr A found about it weren't something that would necessarily have indicated 'H' was fraudulent (or that the investment was a scam) at the time Mr A asked Santander to make the payment.

Mr A has said that Santander knowing he'd been recommended the investment by a friend should've put it on notice that he might not have fully considered all the risks – relying instead, too heavily, on the experience and advice of his friend. I've given this point careful

thought, but I'm still not persuaded that Santander is likely to have been able to prevent Mr A's loss. Let me explain.

Firstly, regardless of how Mr A found out about the investment, I accept that it's reasonable to conclude that Santander should've warned him about the risks of investment scams during a proportionate intervention about the £30,000 payment. But I can't reasonably conclude that it would've been readily apparent in January 2019 that 'H' might be fraudulent rather than a higher risk investment. I simply don't think Santander could readily have uncovered information – especially through proportionate enquiry in response to a payment – that would've led to significant doubts about the legitimacy of 'H' at that point in time. Neither do I think Mr A could've uncovered such information at the time – he wasn't at fault here.

Secondly, Mr A did carry out checks before investing – not just relying on the advice of his friend. Checks that confirmed 'H' and 'P's status on Companies House, and their trading history.

Finally, Mr A's friend having been investing for a year and receiving returns is likely to have been a reassurance to both Santander and Mr A – particularly if Santander had questioned whether the promised rate of return was realistic.

To recap, I can only reasonably expect any intervention or enquiries made by Santander to have been proportionate to the perceived level of risk of 'H' or 'P' being fraudulent. I don't think that a proportionate enquiry in January 2019 would've led to either Santander or Mr A considering 'H' or 'P' being anything other than legitimate. With that in mind, and all considered, I'm not persuaded that Santander was at fault for carrying out the relevant payment instruction, or for not preventing Mr A from making his payment.

In terms of trying to recover the lost funds; I'd expect Santander to attempt this at the point it's alerted to the loss. But more than four years had passed by the time Mr A contacted Santander. Furthermore, both 'H' and 'P' had gone into liquidation by this point and recovery from 'M' wasn't possible as it was acting as a payment processor for 'P'.

Therefore, I can't say Santander had any reasonable prospect of recovering the funds in 2023 given the passing of time; and because 'H' and 'P' had gone into liquidation more than three years before.

I have a great deal of sympathy for Mr A and the loss he's suffered. But it would only be fair for me to direct Santander to refund his loss if I thought it was responsible – and I'm not persuaded that this was the case. And so, I'm not going to tell it to do anything further.

My final decision

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision **before 14 October 2025**.

Anna Jackson
Ombudsman