

The complaint

Mr B complains that HSBC UK Bank Plc won't reimburse him after he lost money to an investment – that he now considers to have been a scam – whereby he sent money to an account held at HSBC.

Mr B is professionally represented in bringing his complaint, but for ease of reading, I'll refer to all submissions as being made by Mr B directly.

What happened

The circumstances of this complaint are well known to both parties, so I won't repeat them in detail here. But briefly, both parties accept that Mr B had been investing in a wine portfolio with a firm I'll refer to as 'E' for a number of years, although due to differences in payment regulations and protections across different years, Mr B is only complaining about some of the later payments he made to E, which are as follows:

Date	Value
9 May 2019	£15,000
10 May 2019	£12,905
13 December 2019	£15,880
24 December 2019	£10,000
12 February 2020	+£12,000 credit

Mr E has explained that during the Covid pandemic, he received a call from an agent advising that E was experiencing difficulties and recommended that Mr B transfers his wine portfolio to fine art, which Mr B did. He was then contacted by the same agent suggesting Mr B transfers his portfolio again to a second fine art company, based on cheaper storage costs, which Mr B also agreed to do. However, when Mr B tried to sell some of his portfolio, the agent was unresponsive and both fine art firms have since liquidated or dissolved. Upon receiving his artwork, Mr B has found associated certificates to be missing and believes the three businesses were linked and conducting a scam.

Mr B got in touch with his bank to raise a claim, and also contacted HSBC, where the receiving bank account of E was held. HSBC considered Mr B's complaint but didn't uphold it. It said Mr B's losses were not due to HSBC's actions, it followed the correct account opening processes and also followed its legal obligation to process payments in accordance with instructions received.

Mr B remained unhappy and referred his complaint to our service. An investigator considered the complaint but didn't uphold it. To summarise, he didn't think there was enough evidence to conclude that Mr B made the payments as a result of a scam.

Mr B disagreed with the investigator's view, so the complaint has been referred to me for 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 Mr B paid a significant amount of money for a wine portfolio, believing it to be an investment, and now considers he has been scammed by the firms involved into owning artwork he believes is not worth near the money he paid.

In order to determine that HSBC is responsible for Mr B's losses and for it to refund him, I'd first need to be satisfied, based on the available evidence, that the losses he has incurred were as a result of a scam. I'd therefore need to determine that E's reason for procuring the payment was fraudulent. This would mean being persuaded that E had criminal intent at the time it received Mr B's payments to defraud him. Based on everything I've seen, I don't think there is enough evidence to support this claim. I've explained why in more detail below.

From researching E online, I can see it was incorporated over ten years ago and remains an active firm. I've also considered the evidence HSBC has provided about E's account. While HSBC has provided our service with this information, it has done so in confidence. It has provided that which is necessary for the determination of this complaint to allow us to discharge our investigatory functions. Due to data protection laws, our service can't share any information about the beneficiaries, the receiving bank accounts or any investigation and action subsequently taken. However I would like to assure Mr B that I have thoroughly reviewed and considered all the information provided before reaching my decision.

Having done so I don't think the account use supports an allegation that E was set up as a means to defraud. I say this based on payments from the account that would align with E's line of work.

Mr B has raised concerns that he never saw evidence of his wine investment, but I don't think this is particularly suspicious in the circumstances – as it's not unusual for an investor to not see their physical investment and I've not seen evidence of Mr B requesting to see this and being denied. Similarly, I think it's important to remember here that E is still actively operating and the overall online feedback currently available (while mixed to an extent) does not support the notion that E is running a scam. E has been featured by a number of credible online newspapers regarding the whiskey and wine investment industry and I'm unaware of any investigations currently taking place regarding E by any authoritative body.

Mr B has raised concerns around VAT and accounts discrepancies by E, and while these help to paint an overall picture of how E may be run, I don't think they're sufficient to form a conclusion that E was a scam against the evidence to the contrary and can be equally explained by ineffective business practices, or another variable entirely. For example, Mr B has questioned the difference in E's assets in its account balances across the years he invested and how such a high proportion of E's assets appear to have been purchased by him, but this requires assumptions to be made about what other assets might have been purchased and sold that year, or whether all wine invested in was even owned beforehand by E specifically, rather than via brokers etc. I think there are simply too many unknowns and other possible scenarios to account for the evidence put forward that would not infer a scam has taken place to determine that this is the most likely outcome.

I also have to bear in mind that at the time E contacted Mr B to move his funds, Mr B doesn't appear to have had concerns about the investment and therefore, if E was a scam firm, it's not entirely clear what the benefit of 'moving' Mr B's funds was for E. For example, we may see cases in a scam where an initial beneficiary bank is blocked and therefore victims are told to make payments elsewhere to continue the scam, but Mr B hasn't alleged this and I

haven't seen evidence to support this either. As mentioned, E is still an operational business, and so even if it was a scam (which I don't consider to be the case here), it's unclear why E would have involved other companies unnecessarily in the scam, rather than continue to take payments from Mr B directly.

I appreciate Mr B has raised concerns regarding a potential fraudulent link between E and the fine art firms Mr E's investment was transferred to. However, our service hasn't currently seen sufficient evidence to determine that either of these firms were a scam either and even if it was later to be determined that the fine art firms *were* a scam, Mr B's investment wasn't transferred to these firms until around two years after he made his final payment to E. So I think it would be difficult even then to determine that E's intentions in 2019 were to defraud Mr B years later in this manner. Additionally, I would need to be able to conclude that E was complicit in any scam being conducted by the other firms, rather than an unwitting associate.

Mr B has also raised other concerns with E, such as it transferring Mr B's investment funds directly to the fine art company, rather than first returning them to Mr B directly. There are a number of genuine investment options where the transfer of the investment occurs between firms, rather than funds being first returned to the customer. In the circumstances of this complaint, there could be a number of legitimate reasons for doing so (which would also explain the association between firms) such as internal deals or agreements in place that are mutually beneficial for both parties.

Mr B has also raised concerns with the same agent advising Mr B both times to move his investment and this demonstrating a link between all firms involved. But again, I'm not disputing there is most likely a link between the firms. But any such link does not demonstrate wrongdoing, particularly when no firm individually has been confirmed as fraudulent and I don't think the evidence suggests that the transfer of Mr B's investment was more likely to be a scam than other possible scenarios such as a business deal between different firms.

As I'm not persuaded this was a fraud or scam, there was no basis for HSBC to have intervened in the operation of the recipient account, or to have prevented Mr B's funds from leaving it for that reason. Additionally, our service only has powers to consider complaints about receiving firms since 31 January 2019 – and we can't consider any acts or omissions carried out by a receiving firm that occurred before this date. In this case, as the beneficiary account opened prior to 2019, I am unable to comment or make a finding about the account opening process – as the act of HSBC opening the account happened prior to when our service had the power to look into complaints about receiving firms.

Mr B reported the alleged fraud to HSBC in March 2024 and was told that allegations like this needed to be made to his own bank. HSBC was correct to say this as it's industry practice for reports of that nature to go through a customer's own bank and for communication to be primarily between these two parties. But because HSBC, as explained above, weren't obliged to return the funds, I don't think this has impacted the outcome of the complaint.

Legal proceedings may uncover new evidence or change the basis on which this case has been considered up until now. However, I have to decide the case on the facts and information currently available to me. Based on the evidence currently available, I'm not able to conclude there is sufficiently persuasive evidence that shows this to be a scam. And I therefore don't think HSBC can be held responsible for Mr B's losses.

If new material information does come to light, at a later date, then a new complaint can be made to HSBC. But I'm satisfied, based on the available evidence that I have seen and been presented with by all parties, that this is a civil dispute.

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 B to accept or reject my decision before 1 September 2025.

Kirsty Upton
Ombudsman