

The complaint

Mr H, who brings his complaint with the assistance of a professional representative, complains that Santander UK Plc won't reimburse funds he lost to fraud.

What happened

As the circumstances of this complaint are well-known to both parties, I have summarised them briefly below.

In or around September 2018, Mr H was persuaded to invest in a business I will refer to throughout this decision as Business H. The investment entailed the issuance of a loan note with annual fixed rate returns.

On 24 September 2018, Mr H made a payment of £15,000 toward that investment from his Santander account.

Mr H later discovered that Business H has gone into administration. And he felt that Business H was operating a fraudulent investment scheme. So he raised a fraud claim with Santander via his representative.

Santander considered Mr H's claim, but it found it had no liability for the loss he'd suffered. It concluded that Business H was legitimate, and therefore the matter was a private civil dispute between Mr H and Business H.

Unhappy with this response, Mr H's representative referred his complaint to our service on his behalf. But after an Investigator considered the complaint, they agreed that Business H was likely a legitimate firm offering a legitimate investment opportunity. They therefore recommended the complaint not be upheld.

Mr H's representative disagreed with that assessment. Therefore, the matter has now been passed to me to decide.

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.

Considerations

In deciding what's fair and reasonable in all the circumstances of a complaint, I'm required to take into account relevant: law and regulations; regulators' rules, guidance and standards; codes of practice; and, where appropriate, what I consider to have been good industry practice at the time.

Taking into account the above, Santander is required to be on the lookout for suspicious payments from Mr H's account that might indicate he is at risk of financial harm, such as from fraud. And where it ought to have intervened in a specific payment, and that intervention likely would have prevented the loss, it would be liable, either fully or partially, to reimburse

Mr H his loss.

However, this liability only exists where I can be satisfied Mr H has been the victim of fraud. Private civil disputes—such as where Mr H paid toward a legitimate investment that failed—cannot reasonably be expected to be reimbursed.

In the circumstances of this complaint, Santander has argued that this was a legitimate investment that unfortunately failed. And Mr H's representative has argued that this was an investment fraud. So, I must first decide which I find to be more likely taking into account the evidence and testimony provided by both parties—along with third-party evidence our service and I have had sight of.

Investment fraud v failed investment

Mr H's representative is aware of our service's approach to claims being made against financial businesses regarding investments in Business H. They have been provided with in-depth analysis and responses regarding our services' findings that Business H was likely a legitimate business offering a legitimate investment scheme.

However, for completeness I will summarise these points as follows:

- Business H completed three separate development projects. It also had other projects it was working on but sold these to other developers when it came into financial difficulties. These indicate it was operating legitimately.
- The payment of high commission to unregulated introducers—making promised returns offered to investors unlikely—is not enough in its own right to indicate fraudulent intent.
- Our service has seen no evidence that the funds investors loaned to Business H and its subsidiaries were not used for their intended purpose.
- The Liquidator appointed to the winding up of Business H has provided no indication that its investigations have uncovered a fraudulent scheme.
- A lack of filed accounts from Business H is again not sufficient to indicate it was operation fraudulently.

Mr H's representative, along with a consortium of other interested parties, have submitted to our service lengthy submissions setting out why it disagrees with our service on these points.

I and our service has considered these submissions carefully, but remain of the view that, on the balance of probabilities, this was a legitimate investment for the reasons I have outlined above.

For these reasons, I am persuaded that Mr H invested in a legitimate business that unfortunately failed. I therefore cannot fairly conclude that Santander can be held liable for Mr H's losses.

My final decision

For the reasons I have given above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 25 November 2025.

Stephen Westlake

Ombudsman