

## **The complaint**

Mr D complains that Santander UK Plc won't refund money he lost when he fell victim to an investment scam.

Mr D is being represented by a company I will refer to as "R".

## **What happened**

The background to this complaint is well-known to both parties, so I won't repeat it in detail here. But in summary and based on the submissions of both parties, I understand it to be as follows.

Mr D says he fell victim to a scam after he made several payments, totalling over £100,000, between July 2021 and September 2022 for an investment opportunity with a company I'll refer to as "T".

Mr D says he was introduced to T to by a friend, who had received regular returns and who had run webinars giving convincing reviews of T. Mr D couldn't find anything adverse about T at the time, and because of this, he made many payments over several months to T. He did this via the Peer-to-Peer market to purchase cryptocurrency, making an international payment, and a payment via a currency exchange.

Mr D said he got paid monthly returns into various accounts within T but never received it into his bank accounts from the platform. He believed he had been scammed when T converted his funds into a cryptocurrency coin that was worthless, without his permission.

Mr D complained to Santander who refused to refund the disputed payments. They said the payments did not fall within the remit of the Contingent Reimbursement Model (CRM) Code due to how they were made. Because of this they weren't able to take any responsibility for Mr D's loss.

Unhappy with this outcome, R complained to our service on Mr D's behalf. Our Investigator didn't uphold the complaint. They concluded that they hadn't seen credible evidence to persuade them that T was operating a scam when Mr D's payments were made. So even if Santander had contacted him prior to releasing the payments, it wouldn't have made a difference given T was regulated in an overseas jurisdiction and had been trading for some time. There were no warnings published by the Financial Conduct Authority ("FCA") or by members of the International Organization of Securities Commissions ("IOSCO") at the time of Mr D's payments.

Mr D disagreed and asked for an Ombudsman's decision. R also provided a thorough submission in support of their view that T operated a scam which would have come to light had Santander appropriately intervened.

## **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 aware that I've summarised this complaint briefly, in less detail than has been provided, and in my own words. No discourtesy is intended by this. Instead, I've focused on what I

think is the heart of the matter here. If there's something I've not mentioned, it isn't because I've ignored it. I'm satisfied I don't need to comment on every individual point or argument to be able to reach what I think is the right outcome. Our rules allow me to do this. This simply reflects the informal nature of our service as a free alternative to the courts.

I've thought carefully about whether Santander treated Mr D fairly and reasonably in their dealings with him, both when he made the payments and when he reported the scam, or whether they should have done more than they did. Having done so, I've decided to not uphold Mr D's complaint. I know this will come as a disappointment to him and so I want to explain why I've reached the decision I have.

I have kept in mind that Mr D made the payments himself and the starting position is that Santander should follow their customer's instructions. So, under the Payment Services Regulations 2017 (PSR 2017) he is presumed liable for the loss in the first instance. I. However, there are some situations when a bank should have taken a closer look at the wider circumstances surrounding a transaction before allowing it to be made.

It may help for me to explain that not every complaint referred to us as an investment scam is in fact a scam. Some complaints simply involve high-risk investments that resulted in disappointing returns or losses. Some traders may have promoted these products using sales methods that were arguably unethical or misleading. However, while customers who lost out may understandably regard such acts or omissions as fraudulent, they don't necessarily meet the high legal threshold or burden of proof for fraud, i.e. dishonestly making a false representation and/or failing to disclose information with the intention of making a gain for himself or of causing loss to another or exposing another to the risk of loss (Fraud Act 2006).

R strongly believe that T was operating a scam, and that Santander ought to have intervened on the payments Mr D made between July 2021 and September 2022. While I appreciate that R may want me to make a conclusive finding on this point, I don't think I need to do that in this case. This is because even if I were to accept that Mr D was scammed, I'm not persuaded that Santander could have prevented the payments from being made. I will explain why.

On 6 July 2021, Mr D made an international payment for £15,000. Due to the amount of this payment, Santander contacted Mr D before processing it. In this call, Mr D told the advisor that he had carried out research on the investment and was aware of the risks. Santander also called Mr D when he made a payment of £10,000 on 21 October 2021. Once again, Mr D insisted the money wasn't going to a scam and was unhappy that Santander were asking for more information regarding the payment.

Mr D also explained to Santander that he trusted the other investor (who introduced him to T) and that he looked into T at the time but couldn't find anything untoward. I have also read through the chat history between Mr D and the people he sent money to, one of which told Mr D he had spent three months looking into the investment. They seemed very knowledgeable and because of this, I am satisfied that it's most likely Mr D would have reassured Santander that everything checked out, had they intervened or contacted him further in relation to any of the payments he made.

I've also done my own research into T, and I can see that it was incorporated in an overseas jurisdiction. It was also regulated by the financial services regulator in that jurisdiction at the time of the disputed payments. While regulatory requirements can vary from one jurisdiction to another, scam firms tend not to submit themselves to any kind of regulatory oversight, given the real risk of its true purpose being discovered. With this regulation being in place, and as there was no adverse information about T in the public domain at the time the payments were made, along with the fact the payments were all made before the launch of the cryptocurrency coin Mr D has since deemed worthless, I'm not persuaded anything would have indicated to Santander that he was investing in a scam.

## The Contingent Reimbursement Model Code

I note the Contingent Reimbursement Model Code has been mentioned in this case. Although Santander are signed up to the Contingent Reimbursement Model Code, the payments Mr D made from his account aren't covered by the Code because they were made to purchase crypto via the peer-to-peer market, via a currency exchange and internationally. So I cannot fairly and reasonably say that Santander should have to refund the payments under the Code, because it doesn't apply here.

## Recovery

I've also looked at whether Santander took the steps it should have once it was aware of the disputed payments.

I can see that Santander tried to recover funds shortly after being made aware of the alleged scam. However, due to the amount of time that had passed, they were unsuccessful in getting any of Mr D's money back.

In relation to the payments made directly to different payees, Mr D made them from his Santander account to purchase cryptocurrency, which was provided by the cryptocurrency platform. Therefore, any attempt to recover the payments would have no prospects of success as the service paid for was provided. Similarly with the currency exchange payment, the service paid for was provided meaning there wouldn't be any success in trying to recover it.

In summary, I know that Mr D will be disappointed with this outcome, not least because the matter has been ongoing for some time. But despite my natural sympathy for the situation in which he finds himself, for the reasons given, it wouldn't be fair of me to hold Santander responsible for his losses. I therefore won't be asking them to do anything further.

## **My final decision**

For the reasons given, 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 D to accept or reject my decision before 13 August 2025.

Danielle Padden  
**Ombudsman**