DRN-5508711

Complaint

Mrs A is unhappy that Santander didn't reimburse her after she reported falling victim to a scam.

Background

In 2022, Mrs A became aware of an investment opportunity with a company referred to in this decision as “T”. T claimed to offer investment services across a range of asset classes, including foreign exchange and commodities. Mrs A was introduced to the opportunity by someone she knew, who had also invested with T. She subsequently attended a webinar hosted by other investors who had visited T’s headquarters overseas. These individuals spoke positively about their experiences and encouraged others to invest.

To fund her investment, Mrs A was required to purchase cryptocurrency. She initially made two payments to a third-party cryptocurrency exchange, which were converted into cryptocurrency and transferred to the control of the fraudsters. Over the following two months, she made additional payments via peer-to-peer cryptocurrency purchases. In these transactions, Mrs A bought cryptocurrency from private sellers, which she then transferred to the fraudsters. It is likely that the individuals on the other side of these peer-to-peer transactions had no connection to T.

In total, Mrs A made multiple payments over a period of approximately two months, amounting to nearly £130,000. The investment appeared to be performing well. However, in December 2022, T converted all invested funds into its own cryptocurrency as part of an Initial Coin Offering (ICO). That cryptocurrency is apparently now worthless and, as a result, Mrs A has suffered a significant financial loss.

Following this, Mrs A raised a complaint with Santander. She explained that she had been the victim of a scam and asked the bank to reimburse her. Santander declined her request. It said that her claim was not covered by the Lending Standards Board’s Contingent Reimbursement Model (CRM) Code. Mrs A was unhappy with that response and so she referred her complaint to this service. It was looked at by an Investigator who didn’t uphold it. Mrs A didn’t agree with the Investigator’s opinion and so the complaint has been passed to me to consider and come to a final decision.

Findings

I’ve considered all the available evidence and arguments to decide what’s fair and reasonable in the circumstances of this complaint.

In broad terms, the starting position at law is that a firm is expected to process payments and withdrawals that a customer authorises, in accordance with the Payment Services Regulations 2017 and the terms and conditions of the customer’s account. However, that isn’t the end of the story. Good industry practice required that Santander be alert to account activity or payments that were unusual or out of character to the extent that they might indicate a fraud risk. Where such activity is identified, I would expect the bank to take steps to protect its customer. That might involve providing a clear warning during the payment process, or contacting the customer to understand the circumstances surrounding the transaction.

Those expectations only apply if I'm persuaded that Mrs A fell victim to a scam. To reach that conclusion, I need to be satisfied that the operators of T intended to defraud her. I obviously can't know what their intentions were at the time, so I must draw inferences from the available evidence.

Having done so, I'm not persuaded that Mrs A fell victim to a scam. It's important to note that suffering a financial loss does not, in itself, mean that the investment was fraudulent. Some investments are inherently high-risk or speculative, and losses can occur even where the investment is genuine. Even if the opportunity was marketed in a way that was overly optimistic or ethically questionable, that alone doesn't meet the legal threshold for fraud.

In this case, T was incorporated overseas and regulated by authorities in that jurisdiction at the time of the disputed payments. While regulatory standards vary, I find it unlikely that a fraudster would voluntarily submit to regulatory oversight, given the risk of its true intentions being exposed. The methods used to promote the investment may have been underhand or misleading, and I understand why Mrs A and others might view them as fraudulent. However, that isn't sufficient evidence to conclude that T set out to defraud investors from the outset.

I accept that T was not authorised by the Financial Conduct Authority (FCA) and that section 21 of the Financial Services and Markets Act 2000 prohibits the promotion of investment activity unless the promotion is made or approved by an authorised person. In other words, T should not have been promoting investments to UK consumers. But that doesn't necessarily mean the investment itself was fraudulent. Unregulated investments span a wide spectrum—from legitimate but niche opportunities to outright scams. I don't consider the lack of FCA authorisation to be enough, on its own, to conclude that Mrs A was defrauded.

There were no specific fraud warnings about T published on the FCA's website. I've considered that two overseas regulators issued warnings about T offering services without permission in their jurisdictions. In 2023, the regulator responsible for T took action relating to governance and shareholder concerns, but those actions occurred after Mrs A had made her investment. While that may point to poor business practices, I'm not persuaded it shows that T intended to defraud investors.

Taking everything into account, I'm not persuaded that Mrs A fell victim to a scam. Even if I were to conclude otherwise, I agree with the Investigator's view that Santander would not likely have prevented the loss. Had it intervened and discussed the payments with Mrs A, I think it would have been reassured. Mrs A had carried out her own checks, attended webinars, and was comfortable with the investment. She was introduced to T by someone she knew personally, and wasn't being guided through the process by a stranger, as is often the case in cryptocurrency scams.

None of this is intended to diminish the impact of the loss Mrs A has suffered. I have considerable sympathy for her situation. However, based on the evidence available, I'm not persuaded that she fell victim to a scam.

Final decision

For the reasons I've explained above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mrs A to accept or reject my decision before 3 October 2025.

James Kimmitt
Ombudsman