Financial
Ombudsman
Service

The complaint

Mrs M has complained Santander UK plc won't refund £20,000 she lost as the result of a scam.

What happened

After being told by friends who'd invested in foreign exchange trading through a company (who I'll call B), Mrs M spoke to a representative of B. She, and her husband who also invested, were convinced B was genuine after carrying out their due diligence and being aware that others had done likewise. They met with the representative of B, and were also sent a copy of the managed account agreement which they felt was credible.

Mrs M was a business woman and felt B, and their representatives, saw things in a similar way to herself. She was attracted by the draw of 40% annual profit on her investments. In April 2018 Mrs M made a payment of £20,000 from her Santander account. She and her husband maintained contact with B and its representatives including attending a party B had organised towards the end of 2019.

Mrs M and her husband made further investments in B. In October 2021 they were able to withdraw £10,000 from their investment but after mid-2022 was unable to get any response from B. After hearing a presentation from a claims management company in 2024, Mrs M believed she'd been the victim of a scam and asked Santander to refund her.

Santander didn't believe they were under any requirement to refund Mrs M as her payment preceded the Contingent Reimbursement Model code by about a year.

In 2024 with the assistance of professional representatives, Mrs M brought her complaint to the ombudsman service.

Our investigator felt Santander should have identified this individual payment as it substantially exceeded Mrs M's normal payment behaviour. However, he didn't think this would have made any difference as Mrs M seemed convinced that she was interested in investing at this time.

Still unhappy, Mrs M has asked an ombudsman to consider her complaint.

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 reached the same outcome as our investigator. I'll explain why.

Where there is a dispute about what happened, I have based my decision on the balance of probabilities. In other words, on what I consider is most likely to have happened in the light of the evidence.

There's no dispute that Mrs M made and authorised the single payment of £20,000 to a

named individual. I'm satisfied the transaction was therefore authorised under the Payment Services Regulations 2017

It's generally accepted that Santander has an obligation to follow Mrs M's instructions. So in the first instance Mrs M is presumed liable for her loss. But that's not the end of the story.

Taking into account the law, regulator's rules and guidance, relevant codes of practice and what I consider to have been good industry practice in 2018, I consider that Santander should:

- have been monitoring accounts and payments made or received to counter various risks, including fraud and scams, money laundering, and the financing of terrorism.

- have had systems in place to look out for unusual transactions or other signs that might indicate that its customers were at risk of fraud (amongst other things). This is particularly so given the increase in sophisticated fraud and scams in recent years, which financial institutions are generally more familiar with than the average customer.

- in some circumstances, irrespective of the payment channel used, have taken additional steps or made additional checks before processing a payment, or in some cases declined to make a payment altogether, to help protect its customers from the possibility of financial harm.

Santander admit that because of the time that has passed since this payment was made more than seven years ago, their evidence is limited but accept it's unlikely that they identified this transaction as high-risk at the time. However, Mrs M would have been asked to confirm what type of transaction she was making. She confirmed this was to pay a bill.

I'm in no doubt that Santander didn't intervene or ask Mrs M why she was making this payment. However, based on the appropriate criteria against which scam cases were judged at the time – and it's worth emphasising we're talking about seven years ago and even a year before the CRM code came into effect – I'm not convinced that I would have expected Santander to identify Mrs M to be at risk.

I say this because although this payment didn't match they type or value of payments Mrs M was making at this time, it's also true this was a one-off payment. There was no indication to Santander that Mrs M was making a large number of payments – which could have raised an alert – and Santander could see this payment was authorised by Mrs M to pay a bill, as she claimed.

I have considered whether any intervention by Santander would have made any difference but I'm not convinced it would. By this stage Mrs M had been essentially *"wined and dined"* (I don't mean literally at this stage but certainly influences) by B and she felt their activities were credible. She'd had an opportunity to meet the individuals involved and was impressed by their knowledge and their demonstration of company algorithms. She was also, it's fair to say, attracted by the potential returns being offered and had heard from others she knew how their investments were performing.

Mrs M has said she'd looked for any adverse reviews of B but found none. She was also aware they weren't registered as a limited company within the UK. So, even if Santander had warned her of the risk she may be open to, I believe Mrs M would have accepted this for the profit she felt she'd be getting.

Overall, I'm not convinced I'd have expected Santander to intervene or that they should now

refund Mrs M.

My final decision

For the reasons given, my final decision is not to uphold Mrs M's complaint against Santander Bank plc.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs M to accept or reject my decision before 15 September 2025.

Sandra Quinn
Ombudsman