

The complaint

Mr A complains that Santander UK Plc won't refund him the money he lost in an investment scam.

Mr A is being represented by a professional representative, but for ease of reading I'll just refer to Mr A.

What happened

The circumstances surrounding this complaint are well-known to the parties, so I won't repeat them in detail here, instead I have summarised what I consider to be the key points.

Mr A says he was introduced to an investment company by a friend in October 2023. His friend had invested with the same company. A representative of the company contacted him over a popular messaging platform and gave him further details. Mr A says he was told he would receive a high return and that the investment company would receive 10% commission on his profits.

Mr A was told to set up and send money to an account with a cryptocurrency exchange, convert his money into cryptocurrency and send that to the investment company, where it would fund his investment account. An account was set up with the investment company for Mr A and he was asked for identity documents, which he thought only a genuine company would ask for. He was able to access the company website, which looked professional and this reassured him that he was dealing with a legitimate business. Mr A was able to log in and monitor his investment at any time.

Eventually, when Mr A tried to withdraw some money from his investment account, he started to encounter difficulties and he was told he would need to pay fees before he could complete withdrawals. It was around this point Mr A began to realise he had been scammed.

Payment	Date	Amount	Payment type	Destination
1	30/10/2023	£50.00	Debit card payment	Own cryptocurrency account
2	02/11/2023	£250.00	Faster payment	Own cryptocurrency account
3	11/12/2023	£900.00	Faster payment	Own cryptocurrency account
4	27/12/2023	£510.00	Faster payment	Own cryptocurrency account
5	28/12/2023	£105.00	Faster payment	Own cryptocurrency account
6	03/01/2024	£120.00	Faster payment	Own cryptocurrency account
7	30/01/2023	£300.00	Faster payment	Own cryptocurrency account
8	31/01/2023	£300.00	Faster payment	Own cryptocurrency account
9	02/02/2023	£550.00	Faster payment	Own cryptocurrency account
10	05/02/2023	£270.00	Faster payment	Own cryptocurrency account
11	10/02/2023	£650.00	Faster payment	Own cryptocurrency account
12	17/02/2023	£464.00	Faster payment	Own cryptocurrency account
13	21/02/2023	£1,000.00	Faster payment	Own cryptocurrency account
14	21/02/2023	£200.00	Faster payment	Own cryptocurrency account
15	25/02/2023	£2,200.00	Faster payment	Own cryptocurrency account
16	25/02/2023	£2,200.00	Faster payment	Own cryptocurrency account

17	02/03/2024	£2,500.00	Faster payment	Own cryptocurrency account
18	06/03/2024	£1,000.00	Faster payment	Own cryptocurrency account
19	06/03/2024	£2,100.00	Faster payment	Own cryptocurrency account
20	06/03/2024	£1,000.00	Faster payment	Own cryptocurrency account
21	17/03/2024	£2,648.00	Debit card payment	Own cryptocurrency account
22	02/04/2024	£3,600.00	Faster payment	Own cryptocurrency account
23	03/04/2024	£1,560.00	Debit card payment	Own cryptocurrency account
24	07/04/2024	£1,017.00	Debit card payment	Own cryptocurrency account
25	02/05/2024	£750.00	Debit card payment	Own cryptocurrency account
26	08/05/2024	£1,000.00	Debit card payment	Own cryptocurrency account
27	06/06/2024	£67.00	Debit card payment	Own cryptocurrency account
28	06/06/2024	£1,075.00	Debit card payment	Own cryptocurrency account
29	07/06/2024	£70.00	Debit card payment	Own cryptocurrency account
30	15/07/2024	£320.00	Faster payment	Own cryptocurrency account
31	29/07/2024	£800.00	Debit card payment	Own cryptocurrency account
32	01/08/2024	£850.00	Debit card payment	Own cryptocurrency account
33	03/08/2024	£536.00	Debit card payment	Own cryptocurrency account
34	06/08/2024	£420.00	Debit card payment	Own cryptocurrency account
35	12/08/2024	£1,100.00	Debit card payment	Own cryptocurrency account
36	19/08/2024	£3,235.00	Debit card payment	Own cryptocurrency account
37	22/08/2024	£1,550.00	Debit card payment	Own cryptocurrency account
38	26/08/2024	£1,350.00	Debit card payment	Own cryptocurrency account
39	29/08/2024	£225.00	Debit card payment	Own cryptocurrency account

Mr A says the payments he made to the scammers represented unusual activity for his account, with frequent, high-value payments being made to a cryptocurrency exchange, with payments generally escalating in value over time. He considers Santander ought to have intervened in the transactions because of this, but it didn't and he didn't receive effective warnings from Santander.

Santander says Mr A authorised the payments and the Contingent Reimbursement Model (CRM) code doesn't apply because the payments were sent to another account that Mr A controlled. It says the loss didn't occur from his Santander account, so it isn't responsible for his loss. It also isn't persuaded that Mr A was the victim of a scam. It said that Mr A had received some profits from his cryptocurrency account that were paid back into his Santander account and it thinks this was more likely a legitimate investment that failed.

Our investigator thought Mr A's complaint should be upheld. She said she didn't think Santander needed to intervene on payments 1-15 because they weren't sufficiently unusual in terms of size and frequency of payment, but she did think that by payment 16, Santander ought reasonably to have intervened. It was the second payment on the same day and took the total value of payments that day to £4,400 and both payments were to a well-known cryptocurrency exchange. She thought a suitable intervention would have involved Santander asking Mr A the payment purpose and other questions to narrow-down the scam risk and then providing relevant, tailored warnings based on Mr A's answers. She thought tailored warnings about the scam risk would have led to Mr A ceasing to make further payments. There was no evidence he had been asked to mislead Santander and the type of warnings Santander should have given him about investment scams would have likely resonated with him because the particular circumstances of the scam he was falling victim to had many features common to such scams, such as being promised high returns and the involvement of an account manager, for example.

She thought Mr A ought to be responsible for some of his loss because she thought some of the features ought to have caused him concern. For example, he received little information

and no documents about the investment, if he had researched the investment company he might have found negative reviews, which she thought were available online at the time. On that basis, she thought Mr A ought to be responsible for 50% of his losses.

Santander didn't agree. It wasn't convinced this was a scam. It questioned why Mr A would invest for so long without making a profit, that he had control of the cryptocurrency account he transferred money to, he was able to make withdrawals and it thought his payments matched patterns of usual cryptocurrency investment activity. It referred to two small credits Mr A had received from his cryptocurrency account on 23 November 2023.

As Santander didn't accept the investigator's assessment, the complaint has been passed to me for an ombudsman's 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.

In broad terms, the starting position is that a firm is expected to process payments and withdrawals that its customer authorises, in accordance with the Payment Services Regulations and the terms and conditions of the customer's account. And in this case it's accepted by all parties that Mr A authorised the payments and Santander made the payments in accordance with Mr A's instructions.

The CRM Code doesn't apply in this case because all the payments Mr A made were payments to another account that he controlled and that situation isn't covered by the code.

But the matter doesn't end there. Having taken into account longstanding regulatory expectations and requirements, and what I consider to be good industry practice, I think Santander ought to have been on the look-out for the possibility of fraud and made additional checks before processing payments in some circumstances.

I've considered Santander's argument that the payments appear to have the character of genuine cryptocurrency transactions. Santander says the pattern of transactions appear consistent with genuine cryptocurrency investment and it points to two payments received into Mr A's Santander account from his cryptocurrency account on 22 and 23 November 2023. Mr A says these were returned funds from two failed transactions. What is clear is that two payments were made from Santander to the cryptocurrency account on 22 and 23 November 2023 and two identical amounts were paid back into the Santander account from the cryptocurrency account on the same days. While I understand Santander's point that payments were going to and from Mr A's cryptocurrency account and this might represent legitimate two-way activity on the account, it appears to me that's it more likely to be indicative of transactions that were refunded or a test by Mr A to check he could withdraw money from his cryptocurrency account. Overall, having seen evidence that money was paid into his cryptocurrency account and paid out of it promptly and having seen copies of messages with the scammers, I'm persuaded that Mr A has, most likely, been the victim of a scam.

Having considered all the available information, I consider Santander ought reasonably to have intervened in this series of payments because payment 16 was sufficiently unusual that Santander should have recognised Mr A was at risk of harm from fraud. I say this because while transactions for several hundred or even several thousand pounds were not particularly unusual for Mr A's account, by payment 16, Mr A had made a series of payments to a cryptocurrency exchange that were broadly increasing in size and frequency and that was unusual for the account. By 25 February 2024, Mr A was making a payment to the

cryptocurrency exchange that was more than double the size of the highest previous transaction to cryptocurrency, he then made another payment of the same size that same day, bringing the total amount sent to cryptocurrency that day to £4,400, which was a significant amount. By February 2024, Santander would have been well aware of scams and multistage fraud involving a series of escalating payments to cryptocurrency exchanges. On balance, I consider this combination of factors ought to have prompted Santander to intervene on payment 16.

I consider that Santander ought to have asked Mr A what the purpose of the payment was and then asked a series of questions designed to narrow-down the particular scam risk Mr A was facing, as far as it could, and then provide suitable warnings tailored to those risks. For example, it might have asked whether the payment was for an investment, given Santander ought to have known that the payments were going to a well-known cryptocurrency exchange, whether Mr A had researched the investment, whether he had checked the FCA Register, whether he had been asked to download software, whether he had heard of the investment through social media, whether anyone was assisting him with the investment such as an account manager or whether he had been able to make any withdrawals.

While Mr A says he was told by the scammers that if he was questioned by his bank he should say that the payments were being made to another of his accounts, there is no evidence of particular coaching by the scammers. The payments were going to another account Mr A controlled, so there is little to suggest Mr A wouldn't have responded openly and honestly to Santander's questions. Had he done so, some of his answers are likely to have caused Santander concern, for example he hadn't checked the FCA Register and he was being assisted by an account manager. Santander's warnings are also likely to have resonated with Mr A, for example if it had warned him to check the FCA Register, to be wary of unregulated investment companies and account managers claiming to manage investments on behalf of customers, because that was the situation Mr A was in.

On balance, I consider intervention by Santander on 25 February 2024 would, more likely than not, have been effective in preventing Mr A's further losses, because his answers are likely to have caused Santander concern and its warnings are likely to have caused Mr A to pause and look into matters further. I think he would have discovered that the investment company wasn't regulated by the FCA or an overseas regulator and while I can't see any negative online reviews earlier than May 2024, I think he would have been wary of warnings about account managers claiming to work on behalf of customers and not being able to make withdrawals. Had Mr A attempted to make a withdrawal in response to such a warning, it's likely he would have been unable to and realised he was being scammed.

Is it reasonable to hold Santander responsible for Mr A's loss?

Santander says Mr A's money wasn't lost from his account with Santander, it was moved to a cryptocurrency account he controlled and was moved on to the scammer from there. Whilst that's correct, for the reasons given above, I'm satisfied Santander had an opportunity to prevent Mr A's losses and that it ought to have intervened in transaction 16. I'm also satisfied if it had done so, it's likely the scam would have been uncovered. So, overall, I'm satisfied it made an error that has caused Mr A loss and it's fair to hold it responsible.

Should Mr A bear any responsibility for his loss?

Mr A says he was told his investment would make good returns and that the investment company would take 10% commission, but he has provided little detailed information about what he was told – what returns he might expect and over what period. He says he wasn't provided with any documents or agreement, so despite Mr A saying the investment company's website looked professional, it seems this was a very vague arrangement. I

understand that Mr A didn't have any investment experience, but I consider the general lack of clarity about the arrangements ought to have caused him some concern.

It isn't clear to me that there were any warnings available online about this investment at the time of the scam but it seems Mr A didn't search the FCA register to see if the company was regulated.

Mr A also appears to have been trying to withdraw money from this investment from at least 19 July 2024 but was unable to. Instead, he was told he needed to pay fees in order to release his money, despite no previous mention of fees having been made. He continued to pay money in order to release his investment, but I think this ought to have caused him real concern and led him to realise that this was a scam earlier than he did. Overall, taking account all of these factors, I consider Mr A should bear responsibility for 50% of his losses.

Recovery

I'm satisfied there were no reasonable steps Santander could have taken that were likely to result in the recovery of Mr A's money. The payments had been sent to Mr A's own cryptocurrency account and then promptly paid away from it to the scammers, according to his own version of events and supported by the statements from his cryptocurrency account.

Putting things right

Santander must pay Mr A 50% of each payment from payment 16 onwards and add interest to that amount at the rate of 8% simple per year from the date of each payment until the date of settlement.

If Santander considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mr A how much it's taken off. It should also give Mr A a tax deduction certificate if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.

My final decision

I uphold Mr A's complaint and I require Santander UK plc to put things right in the way set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 6 November 2025.

Greg Barham
Ombudsman