

## **The complaint**

Mr B 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 late 2018, Mr B was told about an investment opportunity by a long-standing acquaintance. He was introduced to the manager of that investment opportunity and told that it entailed trading foreign currency for profit.

Between 10 October 2018 and 19 May 2020, Mr B made eight payments totalling £97,835 from his Santander account toward the investment.

Mr B saw 'returns' on his payments up until well after the final payment he made totalling £63,700. But when these credits ceased, and he discovered a criminal investigation had been opened against the investment schemes' operators, he realised he'd been a victim of fraud. He therefore raised a claim against Santander.

Santander considered Mr B's claim, but it didn't agree to reimburse him. It found after investigation that Mr B had not likely been the victim of fraud, but instead had invested in a legitimate scheme that had failed. It therefore concluded that the matter was a civil dispute between Mr B and the investment scheme provider.

Mr B didn't agree with that assessment, so he referred the complaint to our service for an independent review. An Investigator considered the evidence and testimony provided by both parties, but concluded that Santander ought to have reimbursed Mr B some of the payments made.

Santander disagreed with that assessment, so the matter has 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*

There is no dispute here that Mr B authorised the transactions in question. And the starting position in law is that he will be held liable for transactions that are authorised in the first instance. That is due to Santander's primary obligation to process payments in line with its customer's instructions, as set out in the Payment Services Regulations 2017.

However, Santander was a signatory to the Lending Standards Board's Contingent Reimbursement Model (the CRM Code) at the time some of the payments were made. The CRM Code came into effect on 28 May 2019 and was not being applied to payments made prior to this date. And as Mr B made payment prior to, and after this date, I need to consider

these payments separately.

*Has Mr B likely been the victim of fraud?*

Santander has made reference on several occasions to Mr B not being the victim of fraud here, even after our Investigator provided a comprehensive breakdown of the evidence obtained supporting that this was a fraudulent investment scheme.

I don't intend to repeat these points again in detail, but I am persuaded from the evidence available that Mr B has likely been the victim of fraud here for the following reasons:

- the accounts associated with, or linked to, the investment scheme's provider have been reviewed by this service and indicate that this was likely a Ponzi scheme, with investors funds being paid out to other investors in returns, from the outset.
- little to no funds were used for the purpose of which they were being provided.
- there is an ongoing criminal investigation against the scheme and its operators, with the main culprit having fled the UK shortly after their accounts had been frozen.

Santander has argued that Mr B received a vast proportion of the funds he invested back in credits, indicating that this is not typical in cases of fraud. But I don't agree with that assessment.

To the contrary, the very nature of Ponzi schemes relies on paying out returns to earlier investors to maintain the facade that they are legitimate and onboard new victims. Mr B was one of the earlier victims in this case, so I am not surprised to see he was paid the sums he was. Had the fraudster failed to keep up the illusion that earlier investors had been successful in their investments, this would have collapsed the entire operation, and the fraudsters would have been unmasked.

For the above reasons, I'm persuaded that Mr B has likely been the victim of fraud in this case.

*Payments made prior to the CRM Code's introduction*

Taking 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, Santander ought reasonably to have been on the lookout for any transactions that would indicate Mr B was at risk of financial harm from fraud. And where it identifies a risk, it ought reasonably to intervene in that payment, ascertain the purpose of it, and provide warnings relevant to the risks presented.

There is no dispute here that Santander ought to have identified a fraud risk and intervened in the payments being made, as it did so when Mr B carried out a £15,000 payment on the 11 October 2018. Santander hasn't been able to provide a copy of that intervention, but I concur with the Investigator's assessment that any intervention carried out by Santander, regardless of effectiveness, likely wouldn't have prevented the fraud from occurring, or Mr B continuing to make payments.

The modus operandi of this fraud was convincing in nature. Mr B was introduced to it by a close and trusted person, who was experienced in such matters. And that person had confirmed success in their investment, including the payment of returns.

Further, Mr B had met the investment scheme's operator in person, had been provided with signed contractual agreements, and there was little information online to indicate the scheme was suspicious or fraudulent.

Had these facts been presented to Santander in any intervention call, it's likely that its concerns would have been quashed. And I find that any warnings it likely would have given regarding investment fraud wouldn't have resonated with Mr B.

For these reasons, I don't find Santander ought to be liable for the payments made prior to the CRM Code's introduction, as it wouldn't have been able to prevent the fraud.

#### *Payments made after the CRM Code's introduction*

The CRM Code's starting position is that a customer should be reimbursed their loss where they have been a victim of fraud. However, signatories can choose not to reimburse a customer where it can demonstrate one of the exceptions to reimbursement has been met under the provisions of that Code.

Santander has presented our service with no argument regarding exceptions to reimbursement here. I therefore find that they cannot be relied upon. However, Santander has argued that during the period where payments were caught by the CRM Code, Mr B received credits totalling more than the value of debits. It therefore concludes that Mr B was in fact not at a loss during this period. Having considered Santander's arguments carefully, I do not find that to be a fair or reasonable assessment of Mr B's claim here.

As Mr B has been the victim of fraud, the credits received are not 'profits'. Overall, Mr B has been caused a substantial loss from the fraud committed against him. And while reimbursement is only being considered for the payments made during the CRM Code period, I don't find it fair or reasonable to void any reimbursement owed merely because many of the credits were paid in that specific period. Santander has also not based its argument on any guidance set out in the CRM Code, as such scenarios are not addressed.

Instead, I find the most fair and reasonable way to apportion the credits received against the payments made is to consider them against the total loss, as they can't be attributed to any specific payment. This ensures that the credits are fairly distributed.

#### **Putting things right**

In this case, the credits received equals £63,700 and the total amount paid to the fraud equals £97,835. Santander should divide the credits by the total amount paid to the fraud. This gives the percentage of the loss that was received in credits. Deducting that same percentage from the value of each payment after and including the CRM Code caught payments gives the amount that should be reimbursed for each payment.

Here the credits amount to 65.11% of the total paid to the fraud. It follows that the outstanding loss from each CRM Code caught payment should be reduced by the same percentage. That means Santander should reimburse 34.89% of each of the CRM Code caught payments.

Please note that, for ease of reading, I've rounded the relevant percentages down to two decimal places, but Santander should perform the calculation I've set out above to arrive at a more precise figure, as I have done to arrive at the figure below.

After taking the steps set out above, I calculate Mr B's outstanding loss from these payments to be £15,992.

Santander should also pay 8% simple annual interest on this amount from the date it declined, or ought to have responded to, his claim under the CRM Code. That is to reflect the deprivation of those funds during that time.

### **My final decision**

For the reasons I have given, I uphold this complaint and direct Santander UK Plc to settle this complaint as I have set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 3 March 2026.

Stephen Westlake  
**Ombudsman**