DRN-5805716

The complaint

Mr E complains Santander UK Plc ('Santander'), hasn't reimbursed him following an Authorised Push Payment ('APP') investment scam he fell victim to. He says Santander should reimburse him for the money he lost.

Mr E has brought the complaint with the assistance of a professional representative, but for simplicity I will refer to Mr E throughout this decision, even when referencing what his representatives have said on his behalf.

What happened

As both parties are familiar with the circumstances of this complaint, I've summarised them briefly below.

Mr E was told, by a couple of colleagues of his, about an investment with a company which leased cars – I'll call this company 'B'. Interested, Mr E made enquiries with B and was told his investment would be used to buy a vehicle which would then be leased out via B's FCA regulated arm which I'll call 'R'. Mr E was told he'd receive regular returns on his investment for a term of 36 months, and then an exit payment (the remainder of the invested capital plus interest) when the vehicle was returned by the lessee. Mr E decided to invest, and, in October 2018, he made a payment of £14,000 from his Santander account to fund the investment. Mr E started to receive the returns as promised and believing things to be going well decided to enter a further separate agreement, making another £14,000 payment from his Santander account on 22 August 2019. Mr E received some returns, but then the payments stopped.

Mr E raised the matter with Santander in May 2021, with Santander initially advising Mr E that it was a civil dispute. In 2024, Santander tried to contact Mr E about the matter to obtain further information but was unsuccessful.

Mr E, through his professional representative, reported the matter to Santander again in March 2025 to try and recover his funds or be reimbursed his loss for the investment payment he had made in August 2019 under the Lending Standards Board ('LSB') Contingent Reimbursement Model Code ('CRM Code'). This was a voluntary code which was in force at the time Mr E made the August 2019 payment and which Santander was a signatory to. The CRM Code required firms to reimburse customers who had been the victims of APP scams in all but a limited number of circumstances.

Santander issued its final response to Mr E on 28 May 2025. In short, it sought to rely on a provision within the CRM Code that allowed a firm to delay giving an outcome if there was a police investigation ongoing and the outcome of that investigation might reasonably inform a firm's decision as to whether reimbursement is due under the CRM Code.

Unhappy with the response, Mr E referred the matter to our service.

One of our Investigators looked at the complaint. They highlighted that the Serious Fraud Office ('SFO') had completed its investigation in January 2024 with the outcome being communicated publicly and on its website. They noted that charges had been filed, and while the court date had been set for the latter half of 2026, there was no good reason to delay making a finding on this complaint based on the evidence available. They said the evidence showed there was a clear discrepancy between the payment purpose Mr E and B had in mind, so they felt this met the definition of an APP scam as per CRM Code. They also said they were satisfied Mr E had a reasonable basis for believing the investment was legitimate and therefore they did not think any exceptions to reimbursement applied.

They therefore recommended a full refund of the payment Mr E made in August 2019, less the returns he received. Mr E advised he received returns of £4,346.73 into his Santander account. So, the Investigator considered Santander should reimburse Mr E his outstanding loss of £9,653.27, as well as 8% simple interest. With regard to the 8% simple interest, the Investigator considered it should be applied from 15 days after the date the directors of B were charged by the SFO (19 January 2024), to the date of settlement. This was because the CRM Code allowed businesses 15 business days to make a decision on a customer's scam claim once the outcome of an investigation is known.

They also considered that Santander could take an assignment of rights to any funds that may be potentially recovered or returned to Mr E through any other ongoing processes before paying the award.

Mr E accepted the findings, however Santander did not. In short, Santander advised:

- That it is not Santander's position that the decisioning of Mr E's complaint (and, where appropriate, the payment of redress) need necessarily wait until the outcome of the criminal trial of B's directors (albeit it does consider that the trial may satisfy some of the uncertainties regarding the financial aspects). And it does not dispute that there are indications which suggest that the scheme could have evolved into a fraudulent empire over time.

- It firmly believes it is premature to issue a decision on Mr E's complaint at this stage based on the evidence available, in the absence of a forensic accounting review to properly assess the complexity of the money movements in relation to these investments and confirm actual losses, and ahead of the joint administrators confirming if customers are likely to receive a distribution and Financial Services Compensation Scheme ('FSCS') claims being concluded or explored by customers.

- It is impossible to be entirely comfortable with Mr E's precise net financial position and, so it follows, to be similarly comfortable with any amount of redress (if any) which should be paid to Mr E. For example, it was unclear if Mr E received any further returns through any other accounts he may have held outside of Santander.

Our Investigator responded, clarifying the settlement amount as confirmed by Mr E, and that the returns paid by B to customers were paid with agreement numbers as the payment references.

In relation to the joint administrators and any distribution customer may receive from that process they confirmed that it was far from certain the customers would get back anything at all, but they had already explained within their view that it would be fair for Santander to take any assignment of rights in relation to any future disbursement Mr E may receive.

And in regard to any claims that customers may submit or have submitted to the FSCS in relation to R (the regulated arm connected to B), the Investigator advised that FSCS is aware that the Financial Ombudsman Service has issued recent decisions upholding complaints against banks related to the investment scheme. The Investigator explained that whether the FSCS pays any compensation to anyone who submits a claim to it is a matter for FSCS to determine, and under their rules. The Investigator also added that as they had determined that Mr E's complaint should be upheld and he will be recovering compensation from Santander, then he cannot claim again for the same loss by making a claim at FSCS. And they added that if Mr E has already made a claim at FSCS in connection with this scam, and in the event the FSCS pays compensation, Mr E is required to repay any further compensation he receives from his complaint against Santander, up to the amount received in compensation from FSCS.

Santander responded advising that its position remained, stating that issuing a final decision on Mr E's complaint would be underpinned with uncertainty given the lack of clarity regarding the fraudulent nature of the scheme ran by B and the risk of any redress award representing an over reimbursement of Mr E's losses (both now and in the future).

As an informal agreement could not be reached, the complaint has been passed to me for a final 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.

First, and for clarity, this decision focuses solely on the payment Mr E made to B for the supposed investment in August 2019. Mr E's representatives haven't referred the earlier 2018 payment Mr E made or the losses attributable to that payment.

In deciding what's fair and reasonable in all the circumstances of a complaint, I'm required to take 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.

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 and the terms and conditions of the customer's account. However, where the customer made the payment as a consequence of the actions of a fraudster, it may sometimes be fair and reasonable for the bank to reimburse the customer even though they authorised the payment.

Santander was a signatory of the CRM Code at the time the August 2019 payment was made. The CRM Code required firms to reimburse customers who have been the victim of certain types of scams, in all but a limited number of circumstances. But customers are only covered by the provisions of the CRM Code where they have been the victim of an APP scam – as defined in the CRM Code. However, Santander consider it isn't appropriate to consider Mr E's complaint due to the upcoming court case (scheduled for mid to late 2026) and the ongoing administrative process which may result in recoveries and also the FSCS accepting claims against R.

Is it appropriate to determine Mr E's complaint now?

The SFO had been carrying out an investigation into the car leasing company (B) and several connected companies including R. But that investigation concluded on 19 January 2024 when the SFO published the outcome of the investigation, which included the charging of R's former company directors with fraud, on its website.

There may be circumstances and cases where it's appropriate to wait for the outcome of external investigations and/or related court cases. But that isn't necessarily so in every case, as it will often be possible to reach conclusions on the main issues on the basis of evidence already available. And I'm conscious that any criminal proceedings that may ultimately take place have a higher standard of proof (beyond reasonable doubt) than I'm required to apply.

The Lending Standards Board has said that the CRM Code doesn't require proof beyond reasonable doubt that a scam has taken place before a reimbursement decision can be reached. Nor does it require a firm to prove the intent of the third party before a decision can be reached. So, in order to determine Mr E's complaint, I have to ask myself whether I can be satisfied, on the balance of probabilities, that the available evidence indicates that it's more likely than not that Mr E was the victim of a scam rather than a failed investment.

I'm required to determine complaints quickly and with minimum formality. In view of this, I don't think it would be appropriate to wait to decide Mr E's complaint unless there is a reasonable basis to suggest that the outcome of any ongoing investigations or court action may have a material impact on my decision over and above the evidence that is already available.

I'm aware that any subsequent court action regarding B and its related companies' actions has the potential to lead to Mr E being compensated twice for the same loss, i.e. by Santander and by the courts. But I don't know how likely it is that any funds will be recovered as part of those proceedings.

Similarly, I'm aware that there is an ongoing administration process – including liquidation. This might result in some recoveries; but given this would initially be for secured creditors, I think it's unlikely that victims of this scheme (as unsecured creditors) would get anything substantive. That said, in order to avoid the risk of double recovery Santander is entitled to take, if it wishes, an assignment of the rights to all future distributions under the administrative process before paying the award.

I'm also aware that the FSCS is accepting customer claims submitted to it against R. More information about FSCS's position on claims submitted to FSCS against R can be found here: https://www.fscs.org.uk/making-a-claim/failed-firms/raedex/

The FSCS is also aware that the Financial Ombudsman Service has issued recent decisions upholding complaints against banks related to the investment scheme. Whether the FSCS pays any compensation to anyone who submits a claim to it is a matter for FSCS to determine, and under their rules. It might be that R has conducted activities that have contributed to the same loss Mr E is now complaining to us about in connection with the activities of Santander.

As I am upholding this complaint for the reasons given below, Mr E should know that as he will be recovering compensation from Santander, he cannot claim again for the same loss by making a claim at FSCS (however, if the overall loss is greater than the amount recovered from Santander, he may be able to recover that further compensation by making a claim to FSCS, but that will be a matter for the FSCS to consider and under their rules.) Further, if Mr E has already made a claim at the FSCS in connection with this matter, and in the event the FSCS pays compensation, Mr E is required to repay any further compensation he receives from his complaint against Santander, up to the amount received in compensation from FSCS.

The Financial Ombudsman Service and FSCS operate independently, however in these circumstances, it's important that the Financial Ombudsman and the FSCS are working together and sharing information to ensure that fair compensation is awarded. More information about how the Financial Ombudsman Service shares information with other public bodies can be found in our privacy notice here:
https://www.financialombudsman.org.uk/privacy-policy/consumer-privacy-notice

Whilst the FSCS may be taking on these cases against R as a failed unregulated investment, it doesn't automatically follow that this was not a scam. This is not something that the FSCS would make a finding on before considering those claims.

Santander has suggested that the FSCS route should be explored before relying on a voluntary reimbursement scheme (here the CRM Code). I should explain that we do sometimes dismiss complaints as better suited to another scheme where appropriate – for example, if the FSCS has agreed to take on claims. However, that is usually only in situations where the complaints brought to us are against the same business the FSCS has opened claims about. That isn't the case here. The complaints the Financial Ombudsman Service are considering are against signatories of the CRM Code, for nonpayment of a scam claim, whereas the claims the FSCS have opened are against R, an entirely different entity.

The FSCS is the fund of last resort, and so it should be the final place a person goes to for redress. Therefore, we would not necessarily expect customers to go to the FSCS before going to their bank. Furthermore, the Financial Ombudsman Service has an obligation to investigate complaints which are brought to us.

As Santander can ask Mr E to undertake to it a transfer to any rights there may be to recovery elsewhere, I'm not persuaded that these are reasonable barriers to it reimbursing Mr E in line with the CRM Code's provisions.

In summary, the SFO has reached an outcome on its investigation, and I don't think it's fair or necessary to wait until the outcome of the related court case (which is not scheduled to commence for quite some time). Nor do I consider it's necessary to wait for the administration process to complete or wait for a claim with FSCS to be made. So, I don't think it would be fair to wait for other investigations to complete before making a decision on whether Santander is fairly and reasonably required to reimburse Mr E.

Has Mr E been the victim of a scam, as defined in the CRM Code?

The Code defines an APP scam as a payment made *"…to another person for what they believed were legitimate purposes but which were in fact fraudulent."*

So, I need to consider whether the purpose Mr E intended for the payment he made was legitimate, whether the purpose he and B had in mind for the payments were broadly aligned and then, if they weren't, whether this was the result of dishonest deception on the part of B.

I'm satisfied Mr E made the payment that is the subject of this complaint with the intention of investing with B. He thought his funds would be used to buy a vehicle which would then be leased out – by R, a company related to B, and which was regulated by the Financial Conduct Authority ('FCA') – and that he would receive regular returns on his investment. Nothing I've seen suggests to me that Mr E didn't think this arrangement was a legitimate investment.

But I think the evidence I've seen does suggest that B didn't intend to act in line with the purpose for the payment it had agreed with Mr E. From what we know of how B operated, investors were told the vehicles they funded would be secured in their favour by way of a charge registered at Companies House. But the FCA's supervisory notice to R said that, while the various companies involved had around 1,200 customers and had entered around 1,200 leases, they had only registered 69 vehicles at Companies House – suggesting that the vast majority of the vehicles funded weren't secured in the way B's investors were told they would be.

The FCA also checked a sample of the vehicles the companies held against the DVLA database, and found many more discrepancies:

- more of these vehicles were second-hand than the stated business model suggested or would support;
- a number of leases started significantly before the vehicles were put on the road; and
- some vehicles were not found on the database at all.

The FCA also said it considered the companies' valuation of the vehicles it held was unrealistic and that the group's liabilities significantly exceeded its assets.

A report by the administrators of R also said that the total number of known loan agreements was 3,609, relating to 834 investors, but that the number of vehicles held by the group at the appointment of the administrators was 596 – or less than one car for every six loan agreements.

I think the evidence shows the company was not carrying out key aspects of its agreement with investors on a large scale. There's also no evidence to show that any charge was specifically registered in Mr E's favour over any vehicle following his investment. So, a significant aspect of what he would have agreed with B does not appear to have been carried out.

The SFO has also made it clear that the former company directors are accused of providing those who invested with false information and encouraging people to invest whilst knowing that investments were not backed up by the cars they had been promised.

With all this in mind, I'm satisfied that the purpose that B intended for the payment Mr E made in 2020 wasn't aligned with the purpose Mr E intended for those payments. And that the discrepancy in the alignment of the payment purposes between Mr E and B was the result of dishonest deception on the part of B. It follows that I consider the circumstances here do meet the definition of an APP scam as set out in the CRM Code.

So, as I'm satisfied Mr E has most likely been the victim of an APP scam, I've considered whether he should be reimbursed or not under the CRM Code.

Is Mr E entitled to reimbursement under the CRM Code?

I've considered whether Santander should reimburse Mr E under the provisions of the CRM Code. There are generally two exceptions to reimbursement:

- Mr E made the payments without a reasonable basis for believing that they were for genuine goods or services; and/or B was legitimate.

- Mr E ignored what the CRM Code deems to be an 'Effective Warning'

And importantly, when assessing whether it can establish these things, Santander must consider whether they would have had a *'material effect on preventing the APP scam'*.

I have considered whether Mr E had a reasonable basis to believe B was legitimate and was providing a genuine investment product.

From what I've seen, the information available at the time of Mr E's payment would not have indicated to him that B was acting illegitimately. R, which carried out the leasing activity on B's behalf, was an FCA regulated company. The company literature that appears to have been available at the time appeared professional, as did the documents Mr E received. B had also been operating for several years at the time Mr E invested in 2019. And I am mindful that prior to making the August 2019 payment, Mr E had initially invested in 2018 and had been receiving returns. So, I don't think there was anything about the investment that should have caused Mr E significant concern at the time. I therefore consider that Mr E did have a reasonable basis for believing the investment was legitimate.

I have also considered whether Santander can rely on the exception to reimbursement that Mr E ignored what the CRM Code deems to be an 'Effective Warning'. However, I am also mindful the CRM Code explains that a firm, in assessing whether an exception to reimbursement applies such as ignoring an effective warning, has to take into account whether it would have had a *'material effect on preventing the APP scam'*. Here Mr E had no reason to believe that B wasn't a genuine company at the time. So, I think it is fair to say that any warning Santander may have provided wouldn't have had a material effect on preventing the scam, such was Mr E's belief in things and that B was a legitimate company. So, I do not think an exception to reimbursement can be applied for this reason in any event.

With the above in mind, I don't think any of the exceptions to reimbursement under the CRM Code apply here. It follows that Santander should re-imburse Mr E's outstanding losses in full.

Redress

Santander should refund Mr E's losses from the August 2019 investment in full. But as Mr E received monthly interest payments back from his investment, I think it would be fair for these payments to be deducted from the amount Santander has to refund. Santander has questioned whether Mr E may have received returns via other accounts. Mr E hasn't made us aware of any further returns – and while I don't have a means of accessing all of the accounts held by Mr E, I've seen no evidence to suggest that any further returns were received. Here Mr E has advised that he received £4,346.73 in returns into his Santander account.

So, on that basis, I believe the loss to be £9,653.27. Santander has also made reference to the absence of a forensic accounting review. But I don't consider this necessary to determine that Mr E has been the victim of a scam or to be satisfied that he has accurately reported his losses.

I've also thought about whether Santander could have taken any steps to protect Mr E from this scam. But I don't consider that any reasonable action I would've expected Santander to take would have prevented Mr E from making these payments, or enabled it to recover any of Mr E's funds once he told it of the scam. I say this as I don't think any of the information I would've reasonably expected it to have uncovered at the time of the payments would've brought the scam to light. Santander also could not have recovered Mr E's funds at the time the scam was reported (in May 2021) given that B had already entered liquidation by that stage.

But I do think Santander should have responded to Mr E's claim and refunded his losses under the CRM Code within 15 days of the SFO publishing the outcome of its investigation. Mr E had raised his claim in 2021, and Santander tried contacting Mr E about the matter in 2024 – after the SFO had published its outcome. So, I think Santander should have provided an outcome to Mr E's claim and reimbursed him within the applicable timeframes at that time. So, Santander should now pay 8% simple interest on the refund, from 15 days after the SFO published its outcome on 19 January 2024, until the date of settlement.

Putting things right

I uphold this complaint. Santander UK Plc should pay Mr E:

- The outstanding amount he lost to the scam orchestrated by B, that being £9,653.27 (which is the payment Mr E made in August 2019 less the returns he received); and

- 8% simple interest on that amount from 15 days after 19 January 2024 until the date of settlement.

My final decision

For the reasons given above, I uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr E to accept or reject my decision before 9 January 2026.

Matthew Horner
Ombudsman