

The complaint

Mr and Mrs O complain that HSBC UK Bank Plc ('HSBC') won't reimburse the money they lost when they fell victim to a scam.

What happened

Mr and Mrs O hold a joint account with HSBC.

Mrs O researched investment opportunities and found a scheme through a company I'll call B. She was told that for every £14,000 she invested, a car would be bought on her behalf and leased out by a connected company – "Raedex" ("R"). Mrs O would receive monthly returns and a final gross payment at the end of the term. The vehicles themselves would act as security for the investment.

In February 2020, Mrs O made a £98,000 payment to B from her HSBC joint account. This payment related to seven units, or cars. She received a 'Vehicle Funding Form' which set out the details of her investment.

Mrs O received payments of £1,871.52 a month from B totalling £20,586.72. Payments then stopped.

After being advised to do so by the Financial Services Compensation Scheme (FSCS), Mrs O contacted HSBC to raise a scam claim in February 2025.

HSBC didn't agree to reimburse Mr and Mrs O's loss. It said Mrs O had a civil dispute with B and that it acted reasonably in following their payment instructions.

Mr and Mrs O were unhappy with HSBC's response and brought a complaint to this service.

Our investigation so far

The investigator who considered this complaint recommended that it be upheld. He said Mrs O's claim was covered by the Contingent Reimbursement Model Code ('CRM Code') - and recommended that HSBC reimburse her full outstanding loss plus interest. Finally, the investigator said it would be fair for HSBC to ask Mrs O to sign an indemnity confirming she will return any funds that may later be recovered in the administration or other processes.

Mr and Mrs O accepted the investigator's recommendations. HSBC didn't agree and said there was no intent to scam at the time the payment was made. HSBC raised the following points:

- If there was an intention to scam from the outset, why were dividends of nearly £21,000 paid? HSBC say that this shows that at the time of Mrs O's payment, there was no deliberate intent to scam.
- A decision to charge directors should not be conflated with a conclusion that Mrs O was the victim of a scam under the CRM Code.
- It is entirely possible, or more likely, that at the time of payment B was operating legitimately but continued to trade while insolvent, particularly given the impact of the pandemic on its ability to trade.
- HSBC should not be liable for a failed investment scheme which it could not

reasonably have detected/prevented.

- It is deeply concerned about the prospect of double recovery, and it is unreasonable to place HSBC in a position where it is forced to refund customers and then monitor whether they will recover funds from different sources.

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 deciding what's fair and reasonable, I'm required to take into account relevant law and regulations; regulatory 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 bank like HSBC is expected to process payments and withdrawals that a customer authorises it to make, in accordance with the Payment Services Regulations and the terms and conditions of the customer's account. But there are circumstances when it might be fair and reasonable for a firm to reimburse a customer even when they have authorised a payment.

Under the CRM Code, the starting principle is that a firm should reimburse a customer who is the victim of an authorised push payment (APP) scam, except in limited circumstances. But the CRM Code only applies if the definition of an APP scam, as set out in it, is met.

Is the CRM Code definition of an APP scam met?

I have considered whether Mrs O's claim falls within the scope of the CRM Code, which defines an APP scam as:

...a transfer of funds executed across Faster Payments...where:

- (i) *The Customer intended to transfer funds to another person, but was instead deceived into transferring the funds to a different person; or*
- (ii) *(ii) The Customer transferred funds to another person for what they believed were legitimate purposes but which were in fact fraudulent.*

To decide whether Mrs O is the victim of an APP scam as defined in the CRM Code I have considered:

- The purpose of the payment and whether Mrs O thought this purpose was legitimate.
- The purpose the recipient (B) had in mind at the time of the payment, and whether this broadly aligned with what Mrs O understood to have been the purpose of the payment.
- Whether there was a significant difference in these purposes, and if so, whether it could be said this was as a result of dishonest deception.

From the evidence I have seen I'm satisfied Mrs O intended to invest in B. She understood that B would use the funds she paid from her joint account to buy cars that would be leased, and she would receive returns on their investment. I haven't seen anything to suggest that Mrs O didn't consider this to be a legitimate purpose.

I've gone on to consider the purpose B had in mind at the time it took the payment. After careful consideration, I'm not satisfied B intended to act in line with the purpose agreed with Mrs O and will explain why.

In its first supervisory notice in respect of R in February 2021 the FCA noted that R said it had entered into approximately 1,200 leases in the period January 2018 to January 2021, but only 69 charges had been registered.

In the same notice the FCA said it had conducted a sampling of R's leaseholder list against the DVLA database and identified various discrepancies between its business model and vehicle inventory. The FCA report referred to the fact that 55 cars appeared to be second hand (although its business model relied to a large extent on securing heavy discounts on new vehicles), to vehicles that couldn't be found, and to leases entered into at a date significantly before the vehicle was put on the road. The FCA also concluded that the group's liabilities significantly exceeded its assets, and its business model was fundamentally unsustainable.

I have also seen evidence from an SFO news release dated 19 January 2024 which confirms that two directors of B had been charged in relation to the car lease scheme. The news release noted that directors were accused of providing those who signed up with false information, encouraging people to pay in with false information whilst knowing that investments weren't backed up by the cars they had been promised.

The SFO also noted that the investment was backed by a tangible asset – a car. I have seen the Vehicle Funding Form Mrs O was provided with when she made the payment which says the car details will follow. The evidence I have referred to above shows this aspect of the investment wasn't being performed.

A report by the administrators of one of the connected companies said that the total number of loan agreements relating to 834 investors was 3,609. But the number of vehicles held by the company at the time it went into administration was 596, equating to less than one car for every six loan agreements.

Overall, I'm satisfied B didn't provide the investment it offered to Mrs O and didn't follow its business model. The purpose B intended when it took Mrs O's funds wasn't aligned with hers. Given the information provided by the SFO in respect of what the directors of B are accused of, I'm persuaded that the purposes each party had in mind for the payments weren't aligned as a result of dishonest deception. This means that I'm satisfied the CRM Code definition of an APP scam has been met. I'm not persuaded I need to wait for any further updates from external parties or organisations to reach my decision.

Should Mrs O be reimbursed under the CRM Code?

HSBC is a signatory to the CRM Code which requires firms to reimburse victims of APP scams like this one unless it can establish that it can rely on one of the listed exceptions set out in it. Under the CRM Code, a bank may choose not to reimburse a customer if it can establish that:

- The customer made payments without having a reasonable basis for believing that: the payee was the person the customer was expecting to pay; the payment was for genuine goods or services; and/or the person or business with whom they transacted was legitimate.
- The customer ignored an effective warning by failing to take appropriate steps in response to that warning.

There are further exceptions outlined in the CRM Code that do not apply to this case.

It is for HSBC to establish that an exception to reimbursement applies. Here, HSBC hasn't considered Mrs O's complaint under the CRM Code and didn't respond to any points made by the investigator in respect of its application. So, it hasn't demonstrated that any of the listed exceptions can fairly be applied.

For the sake of completeness, I'll briefly cover why I'm not persuaded any of the listed exceptions can be fairly applied.

I'm satisfied that Mrs O had a reasonable basis for believing the investment opportunity was legitimate. Mrs O first decided to invest when B was well-established. She received a genuine looking brochure, looked at B on Companies House, and there was nothing in the

public domain at the time to suggest that she ought to have had concerns. The Vehicle Funding Form looked legitimate, and the rate of return Mrs O was being offered didn't appear to be too good to be true. I also note that the payment was made in branch. HSBC's notes say it was a high-risk investment but a legitimate company, and Mrs O had done her research.

HSBC hasn't provided any warnings so hasn't demonstrated that Mrs O ignored an effective warning.

Given what I have said above, I don't consider HSBC could have uncovered the scam and prevented Mrs O's loss at the time the payment was made in branch. I say this because I don't think there was enough information available at the time that would have led HSBC to be concerned that Mrs O was at risk of financial harm.

Mrs O has advised that she received returns which total £20,586.72. These returns should be deducted from the amount HSBC should reimburse.

Interest

Mr and Mrs O reported a scam claim to HSBC in February 2025. By this stage the SFO had published its outcome, and I think HSBC ought reasonably to have reimbursed Mrs O's loss. So, HSBC should pay interest at the rate of 8% simple from the date it declined to reimburse her to the date of settlement.

Claims made to the FSCS

The Financial Services Compensation Scheme (FSCS) is accepting customer claims submitted to it against Raedex Consortium Ltd. More information about FSCS's position on claims submitted to FSCS against Raedex can be found here:

<https://www.fscs.org.uk/making-a-claim/failed-firms/raedex/>

The FSCS is also aware that we have issued decisions upholding complaints against banks related to the Raedex 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 Raedex Consortium Ltd has conducted activities that have contributed to the same loss Mr and Mrs O are now complaining to us about in connection with the activities of HSBC.

As I have determined that this complaint should be upheld Mrs O should know that as she will be recovering compensation from HSBC, she cannot claim again for the same loss by making a claim at FSCS (however, if the overall loss is greater than the amount they recover from HSBC they 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 Mrs O has already made a claim at FSCS in connection with B, and in the event the FSCS pays compensation, Mrs O is required to repay any further compensation she receives from her complaint against HSBC, up to the amount received in compensation from FSCS.

FOS and FSCS operate independently, however in these circumstances, it is important that FSCS and FOS are working together and sharing information to ensure that fair compensation is awarded. More information about how FOS shares information with other public bodies can be found in our privacy notice here: <https://www.financial-ombudsman.org.uk/privacy-policy/consumer-privacy-notice>"

Putting things right

Overall, I'm not satisfied HSBC treated Mr and Mrs O fairly. It should put things right by making the payments set out below.

My final decision

I uphold this complaint and require HSBC UK Bank Plc to:

- Reimburse Mr and Mrs O's full outstanding loss after deducting the payments they received (so £77,413.28); and
- Pay interest on the above amount at the rate of 8% simple per year from the date of HSBC's rejection of their claim (13 February 2025) to the date of settlement, less tax if legally deductible.
- In order to avoid the risk of double recovery HSBC is entitled to take, if it wishes, an assignment of the rights to all future distributions under the administrative process before paying the award.

If HSBC UK Plc considers that it is required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mr and Mrs O how much it's taken off. It should also give Mr and Mrs O a tax deduction certificate if they ask for one, so they can reclaim the tax from HM Revenue & Customs if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs O and Mr O to accept or reject my decision before 7 January 2026.

Jay Hadfield
Ombudsman