

## **The complaint**

Mr S complains that Santander UK Plc didn't do enough to protect him from the financial harm caused by an investment scam, or to help him recover the money once he'd reported the scam to it.

## **What happened**

The detailed background to this complaint is well known to both parties. So, I'll only provide a brief overview of some of the key events here.

Mr S was contacted by someone claiming to be a broker working for "H". He had done business with the broker before and was convinced to invest on the understanding that the investment opportunity he was being offered was legitimate.

The broker promised Mr S returns of 12% and on 9 January 2019, Mr S transferred £20,000 to H from his Santander account. Unfortunately, H entered administration in January 2022, and Mr S has been unable to withdraw or recover any funds.

He complained to Santander, but it said it was a private dispute, and it wouldn't be issuing a refund. But Mr S wasn't satisfied and so he complained to this service with the assistance of a representative who argued that H was operating a scam, it had intended to defraud Mr S, and had no intention of paying him the promised returns. The representative said H paid a very high commission of 35% to introducers and offered interest rates of up to 18% to investors, so it was inevitable that it wouldn't be able to meet its financial obligations.

The representative said Santander should have intervened and requested copies of correspondence he'd received from HSG. It should also have asked him what the payment was for, how he heard about the opportunity, what rate of return he'd been promised, and what he knew about the company he was transferring to.

But our investigator didn't think the complaint should be upheld. He said that even if the investment was fraudulent, he didn't think an intervention by Santander would have made a difference because at the time Mr S made the payment, H appeared to be a legitimate business.

He noted Mr S had been referred to the investment by a broker who he had previously done business with, and there was no adverse information online about H, so if Santander has told him to do more research, there would have been nothing to confirm that H was operating a scam. He accepted H wasn't regulated by the Financial Services Authority ("FCA"), but he explained that didn't mean it was a scam, and he was satisfied Mr S would have gone ahead with the payment following a call from Santander.

Mr S has asked for his complaint to be reviewed by an Ombudsman. His representative has argued that the evidence indicates the investment was a Ponzi scheme and that our investigator has failed to consider the Contingent Reimbursement Model ("CRM") Code.

## **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 conclusion as our investigator. And for largely the same reasons. I know Mr S feels strongly about this complaint, and this will come as a disappointment to him, so I'll explain why.

### *CRM Code*

The Contingent Reimbursement Model ("CRM") Code requires firms to reimburse customers who have been the victims of Authorised Push Payment ('APP') scams. But the CRM Code didn't come into force until after Mr S made this payment.

I'm satisfied Mr S 'authorised' the payments for the purposes of the of the Payment Services Regulations 2017 ('the Regulations'), in force at the time. So, although he didn't intend the money to go to scammers, under the Regulations, and under the terms and conditions of his bank account, Mr S is presumed liable for the loss in the first instance.

Not every complaint referred to us and categorised as an investment scam is in fact a scam. Some cases simply involve high-risk unregulated investments that resulted in disappointing returns or losses. Some of these investments may have been promoted using sales methods that were arguably unethical and/or misleading. However, while customers who lost out may understandably regard such acts or omissions as fraudulent, they do not necessarily meet the high legal threshold or burden of proof for fraud, i.e. dishonestly making a false representation and/or failing to disclose information with the intention of making a gain for himself or of causing loss to another or exposing another to the risk of loss (Fraud Act 2006).

In this case, I don't intend to make a finding on whether H was operating a scam because I agree with our investigator that if Santander had intervened on 9 January 2019, Mr H would have likely gone ahead with the payment. He was confident the investment was genuine and so I've no doubt that he'd have been open in his responses to questions. But he would have explained that he trusted the broker because he'd done business with him before, and there were no red flags present, so I don't think Santander would have had any concerns.

I accept Mr S had been promised high returns and H wasn't registered with the FCA, but I don't think the returns were unrealistic, and the fact H wasn't regulated doesn't mean it was operating illegally. Significantly, there were no warnings on the FCA or IOSCO websites, and I haven't seen any evidence that there were any negative reviews or anything else negative available online about the company. And as Mr S had an existing relationship with the broker, I don't think a generic scam warnings from Santander would have made a difference. So, I'm satisfied he'd have gone ahead with the payment.

I'm sorry to hear Miss B has lost money and the effect this has had on him. But for the reasons I've explained, I don't think Santander could have done anything to prevent his loss and so I can't fairly tell it to do anything further to resolve this complaint.

Finally, I don't think there was a realistic prospect of a successful recovery, and I don't think Mr S is entitled to any compensation.

### **My final decision**

For the reasons I've outlined above, my final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 14 January 2026.

Carolyn Bonnell  
**Ombudsman**