

## The complaint

Mr W complains that HSBC UK Bank Plc (“HSBC”) hasn’t refunded him after he fell victim to an investment scam.

## What happened

Mr W was looking for investment opportunities when he was introduced to a company I will refer to as “S”. S was offering fixed-rate bonds.

Mr W was persuaded to invest £40,000. He made three payments of £10,000 on 26, 27 and 28 February 2021 and a further payment on 1 March 2021. All the payments were sent via an intermediary business that was FCA regulated. Mr W’s investment payments were to be passed from this intermediary to S.

Mr W did receive some monthly returns. He received three payments of £300 but the returns soon stopped and S ultimately went into liquidation. Mr W wasn’t able to recover any of his money and so he reported the matter to HSBC in 2024.

HSBC declined to refund the money Mr W had lost saying that it thought that this was a civil dispute between him and S and as such wasn’t covered by the Contingent Reimbursement Model Code (“the CRM Code”).

It has now come to light that S (as well as another company – linked to S by its director) was shut down by the Insolvency Service for misleading investors and failing to co-operate with an investigation into the firms’ affairs. Furthermore, The Insolvency Service has advised that the Secretary of State has accepted an 8-year disqualification undertaking for the linked director.

Our investigator set out a detailed view explaining why they were satisfied Mr W had been the victim of an APP scam. And why they were satisfied this claim was covered by the CRM Code. Overall, the investigator thought there was enough persuasive evidence that this was more likely a scam than not and they upheld the complaint in full. They said HSBC should refund Mr W’s loss in full minus the returns he’d received plus 8% simple interest.

HSBC did not agree. It urged this service to dismiss Mr W’s complaint. It also said it wasn’t reasonable for this service to decide this complaint now due to the ongoing Police investigations into the activities of S. Finally, HSBC said that even if the complaint was considered under the CRM Code, Mr W did not have a reasonable basis for believing the investment was legitimate as the return being offered by S was too good to be true.

Our investigator responded to HSBC’s additional points but as the complaint couldn’t be resolved informally it 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.

Having done so, I've come to the same conclusions as the investigator. I'll set out my findings in full below.

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 be good industry practice at the time.

HSBC is a signatory of the Lending Standard Board's Contingent Reimbursement Model Code. It has therefore agreed to adhere to its principles. The CRM Code requires firms to reimburse victims of APP scams in all but a limited set of circumstances. The investigator set out their explanation for making the finding this was an APP scam (and therefore a claim caught by the CRM code) but for clarity I'll repeat the salient points here.

- The director of S (and the linked businesses) has been disqualified as a director on Companies House for eight years by the Secretary of State.
- The director had failed to provide liquidators with accounting records for his liquidated businesses and has said he will not be providing these.
- The FCA issued a warning about the linked businesses in March 2020 saying they were providing financial services without authorisation.
- Despite saying S had assets of £34m, it never filed any accounts and wasn't independently audited at any point. There was also a further company that took over S, which also never filed any accounts, and the director was the same person. This company contacted investors to say their money would be safe despite the FCA regulated intermediary going into liquidation, and then it cut contact with all investors.
- Police Scotland are now investigating the director, S and other linked companies.
- In some instances, S' brochures claimed to have agreements in place with Edinburgh City Council to lease local authority properties – ECC have now confirmed to our service that it had no record of any such contract or agreement with S or the director
- There is no evidence to suggest S or the linked companies were operating legitimately. There is no evidence of any investments made. Some consumers received small monthly returns while others received no returns at all.
- The Insolvency Service has also made comments following its investigation into S and the linked companies confirming investors were routinely deceived.

Ultimately there's no evidence which demonstrates that victim's funds were used in the way they were told they would be.

In the absence of any convincing evidence that S was carrying out investments for its investors, I'm persuaded that the payments under discussion here meet the definition of an APP scam, as per the CRM Code.

*Is it fair and reasonable to decide this case now?*

HSBC has urged this service to dismiss this case on the basis that dealing with such a complaint would otherwise seriously impair the effective operation of the Financial

Ombudsman Service. But I haven't been presented with any evidence that supports this conclusion.

HSBC hasn't provided any persuasive evidence that S was operating legitimately. And whilst there is an on-going Police investigation, HSBC hasn't provided an explanation why awaiting the Police investigation would reasonably inform an outcome under the CRM Code.

A Police investigation and decision to charge will be based on a criminal burden of proof. That may well take many months or years to decide or may not happen at all. In this case I'm deciding if HSBC, under the voluntary CRM Code, is liable to refund the consumer where it's more likely than not, that the consumer was the victim of an APP scam. I appreciate a Police investigation may reveal more detail but as I'm of the opinion that it is not in question that this was a scam, then that isn't necessary in this particular instance. There is enough evidence here that on balance Mr W was more likely than not the victim of an APP scam, than not.

#### *Application of the CRM code to the facts of this case*

Because I'm satisfied this is an APP scam and caught by the CRM code, I've gone on to apply the provisions of the Code below.

As I've said, the Code requires firms to reimburse customers who have been the victims of APP scams, in all but a limited number of circumstances. It is for HSBC to establish that a customer failed to meet one of the listed exceptions set out in the CRM Code.

Under the Code, a bank may choose not to reimburse a customer if it can establish that:

- The customer ignored what the CRM Code refers to as an "Effective Warning" by failing to take appropriate action in response to such an effective warning.
- 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.

Further exceptions are outlined in the CRM Code but do not apply to this case.

#### *Did HSBC meet the standards expected of a firm under the CRM Code?*

The CRM code says that, where a firm identifies APP scam risks, it should provide "Effective Warnings" to their customers.

In this case, HSBC told us Mr W wasn't provided with a scam warning at the time he made the payments now under discussion here. And so, it hasn't been able to demonstrate that it has met the firms' standards as per the CRM code.

#### *Did Mr W have a reasonable basis of belief?*

I understand that HSBC believes Mr W lacked a reasonable basis of belief when making these payments due to the rate of return being offered to him. And, whilst I acknowledge that the rate of return being offered here was high, I don't agree that it was so obviously too good to be true that it undermined everything else that Mr W believed to be true about S and the investment opportunity he was entering into.

Mr W was sending his funds via an FCA-regulated company and he had been presented with professional looking literature regarding the investment that was detailed in content and appeared genuine. As HSBC is still of the opinion that S may have been operating a legitimate business, it would seem unreasonable to suggest that Mr W should've been aware that S was operating as a scam at the point he made his investment payments now.

Following this finding I'm not satisfied that HSBC can rely on any exception to reimbursement under the CRM code, and I uphold this complaint in full.

### **Putting things right**

Overall, and for the reasons set out above, I'm satisfied HSBC should've reimbursed Mr W under the provisions of the CRM Code. And, in those circumstances, I direct HSBC to compensate Mr W by:

- Refunding his total losses minus any returns received.
- Adding 8% simple interest per annum on the above refund from the date Mr W's claim was declined to the date of settlement.

### **My final decision**

My final decision is that I uphold this complaint about HSBC UK Bank Plc.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 6 January 2026.

Emly Hanley Hayes  
**Ombudsman**