

## The complaint

Mr O complains that HSBC UK Bank Plc won't refund the money he lost when he was the victim of what he feels was a scam.

## What happened

In early 2023, Mr O was told about an opportunity to invest with an investment company by a family member. Mr O says he understood his money would be used by the company to trade and that he would receive returns on his investment. And after seeing a presentation from the investment company and signing an agreement, Mr O agreed to invest and made a payment from his HSBC account to account details the company gave him. He then also made several later payments to further account details he was given, to increase his investment.

I've set out the payments Mr O made from his HSBC account below:

<b>Date</b>	<b>Details</b>	<b>Amount</b>
21 March 2023	To 1 <sup>st</sup> bank details	\$50,000
30 June 2023	To 2 <sup>nd</sup> bank details	£25,000
3 October 2023	To 1 <sup>st</sup> bank details	£20,000
11 December 2023	To 1 <sup>st</sup> bank details	£20,000
18 December 2023	To 1 <sup>st</sup> bank details	£20,000

Unfortunately, in May 2024 Mr O received an email from the investment company saying that it was experiencing significant liquidity difficulties and so was immediately ceasing all trading activities. Mr O says he has since been unable to contact the person managing his investment, and so reported the payments he had made to HSBC as a scam.

HSBC investigated but said it deemed this to be a civil dispute, rather than a scam. So it didn't agree to refund the money Mr O had lost. Mr O wasn't satisfied with HSBC's response, so referred a complaint to our service.

One of our investigators looked at the complaint. They didn't think there was enough evidence to conclude that what had happened here was a scam, rather than a failed investment. So they didn't think HSBC should have to refund the money Mr O had lost. Mr O disagreed with our investigator, so the complaint has been passed to me.

## 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 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.

At the time of the payments, HSBC was a signatory of the Lending Standards Boards Contingent Reimbursement Model (the CRM code). This required firms to reimburse customers who had been the victim of certain types of scams, in all but a limited number of circumstances. But the code only applied to payments between accounts in pounds sterling, and customers were only covered by the code where they had been the victim of a scam – as defined in the code.

The first payment Mr O made here, for \$50,000 on 21 March 2023, was made to an account in US dollars. So this payment wasn't made between accounts in pounds sterling, and the CRM code therefore doesn't apply to it.

For the remaining four payments, the relevant definition of a scam from the CRM code is that the customer transferred funds to another person for what they believed were legitimate purposes but were in fact fraudulent.

The CRM code also says it doesn't apply to private civil disputes, such as where a customer has paid a legitimate supplier for goods or services but has not received them, they are defective in some way, or the customer is otherwise dissatisfied with the supplier.

So in order to determine whether Mr O has been the victim of a scam as defined in the CRM code I need to consider whether the purpose he intended for the payments was legitimate, whether the purposes he and the investment company intended were broadly aligned and then, if they weren't, whether this was the result of dishonest deception on the part of the company.

But I'm not satisfied the evidence I've seen shows that the investment company intended a different purpose for the payments than Mr O, or that Mr O's and the investment company's purposes for the payments weren't broadly aligned.

I've thought very carefully about this and I think it's a finely balanced matter in this case. But where the evidence available is unclear or inconclusive, I must make my decision on what I think is likely to have happened, based on the evidence I do have.

I appreciate that the investment company ceased trading and that Mr O didn't receive either the returns he was told he would or his investment capital back. But investments can fail or not produce the expected returns for a number of reasons, that don't necessarily mean they were being operated as a scam. So I don't think this is sufficient, by itself, to say that the investment company was operating a scam.

Mr O was first introduced to the investment company by a family member he understood had invested with the company previously. And the family member was obviously satisfied enough with the legitimacy and performance of their investment to recommend it to Mr O. But I wouldn't usually expect a company operating a scam to be able to arrange this kind of personal recommendation.

Four of the five payments Mr O has complained about were also sent to what appears to be a genuine and legitimate intermediary, before then being sent on to the investment company. And I wouldn't usually expect a company operating a scam to have this kind of relationship with this kind of legitimate intermediary.

The communication Mr O had with the investment company appears to have been relatively professional. He was also given an application form to complete before joining the

investment, which specifically highlighted that the investment wasn't regulated and asked the investor to confirm that they had the financial ability to bear the economic risk of their investment – which I wouldn't necessarily expect from a company operating a scam.

I also haven't seen any clear evidence which shows that the investment company didn't invest the money Mr O sent to it in the way it suggested it would, rather than that the proposed investment failed or didn't provide the expected returns. And I haven't been provided with evidence of any investigation by an external organisation which concludes that the investment company was operating a scam in relation to the payments Mr O has complained about.

So I'm not persuaded that the available evidence is sufficient to safely conclude that the purpose the investment company intended for these payments was different than the purpose Mr O intended. And so I don't think the circumstances here meet the definition of a scam from the CRM code, or that HSBC has acted unreasonably in not agreeing to refund the money Mr O lost from these payments as a result.

I understand Mr O has said he knows of other investors who have been refunded by their banks after losing money invested with the investment company. But our service looks at each complaint individually, on its own merits. I don't think other banks agreeing to refund their customers necessarily means HSBC should be required to refund Mr O here. And, for the reasons I've explained above, based on the evidence I've seen here I don't think it would be fair to require HSBC to refund the payments Mr O has complained about.

It's possible that material new evidence may become available at a future date, which suggests that the investment company did take the payments using dishonest deception. If that happens, Mr O can ask HSBC to reconsider his claim under the CRM code for these payments and, if not satisfied with its response, bring a new complaint to our service.

In addition to any obligations from the CRM code, the regulatory landscape and good industry practice sets out requirements for banks to monitor accounts, have systems in place to look out for unusual transactions which might indicate its customers are at risk of financial harm, and to take additional steps or carry out additional checks before processing payments in some circumstances to help protect customers from the possibility of financial harm.

But even if HSBC had recognised that Mr O was at heightened risk of financial harm from fraud as a result of some of the payments he made here, I don't think the action I would have expected it to take would have prevented his loss.

Mr O was recommended the investment by a family member. His communication and paperwork with the investment company looked relatively professional. And, by the time of the later payments, he'd been able to make a withdrawal from the investment.

So I don't think any checks I would reasonably have expected HSBC to carry out here would have uncovered significant concerns about the payments Mr O was making, or that anything I would reasonably have expected it to have done would have stopped him from making the payments or losing the money he did.

I'm sorry to disappoint Mr O, as I appreciate he has lost a significant amount of money. But I'm not satisfied that I can fairly ask HSBC to refund him based on the evidence that is currently available.

## **My final decision**

For the reasons set out above, I don't uphold this complaint.

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

Alan Millward  
**Ombudsman**