

## **The complaint**

Mrs R, who is represented, complains that Santander UK Plc won't reimburse money she lost to fraud.

## **What happened**

As the circumstances of this complaint are well-known to both parties, I have summarised them briefly below.

In late 2018-early 2019, Mrs R was introduced to an investment opportunity through a company I will refer to throughout my decision as 'Company G'. Persuaded to invest, between 18 March 2019 and 28 February 2020, Mrs R made four payments from her Santander account to an account belonging to Company G.

Mrs R saw purported returns on her investment paid into another account she held between 2019 and 2021. But in early 2021, returns ceased to be paid and Mrs R was unable to contact representatives of Company G. She also discovered through other investors and law enforcement authorities that Company G was likely operating a fraudulent scheme.

Mrs R raised a claim through her representative with Santander, asking it to reimburse the loss suffered. But Santander found after its own investigations that Mrs R hadn't likely been the victim of fraud. Instead, it found the matter more likely to be a civil dispute between Mrs R and Company G. It therefore concluded that it had no liability to reimburse her loss.

Mrs R disagreed with that assessment, so her representative referred the matter to our service for an independent review. An Investigator considered the evidence and testimony provided but found that Santander had made an error in not reimbursing Mrs R some of her loss.

Santander disagreed with that assessment, as it maintained its position that the matter was a civil dispute. As such, the matter has now been passed to me to decide.

## **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.

### *Was Mrs R likely the victim of fraud?*

Santander's primary argument in this case—and why the matter has been referred to me for decision—is that it finds it more likely than not that Mrs R has lost her money via a legitimate investment that has failed. It therefore seeks to rely on this for not providing Mrs R a reimbursement, as it has no such liability where the matter is deemed a civil dispute between two legitimate parties.

Having considered the evidence carefully in this case, I do not agree with Santander's position.

Our Investigator has already provided a comprehensive breakdown of the facts that have led our service to conclude this matter a fraud, rather than a civil dispute. I don't intend to repeat in such detail all those points again. However, it remains clear from the Liquidator's report in winding up Company G that it was not operating legitimately and wasn't using investor funds as it had set out in its promotional material.

Further, Company G didn't appear to have any identifiable assets, tangible or otherwise, in the locations it said it was operating in abroad. Directors obfuscated the Liquidator's attempts to look into this further and were eventually disqualified from directorship by the Secretary of State for their conduct.

The evidence obtained by the Liquidators strongly suggests that Company G and its representatives were not only falsely representing the investment opportunity being presented, but could provide no evidence of its claimed operations abroad. To the contrary, evidence suggests that these likely did not exist, despite claims that they did.

Santander has argued that the lack of law enforcement involvement or action in this matter is sufficient for it to rule the matter a civil dispute until such actions are taken, but I don't agree with that position. While there are many reasons why law enforcement might not take action—or have not acted yet—, the test I am applying in this case is not the same test that is applied to cases in criminal prosecutions. I must determine, considering the evidence in front of me, what is more likely than not. And having done so, it appears from the evidence obtained by the Liquidator's investigations that Company G and its representatives were likely dishonestly deceiving investors.

For these reasons, I'm satisfied that on the balance of probabilities it is likely Mrs R has been the victim of fraud here.

### *Considerations*

There is no dispute here that Mrs R authorised the transactions in question. And the starting position in law is that Mrs R will be held liable for the transactions she authorised in the first instance. That is due to Santander's primary obligation to process payments in line with its customer's instructions, as set out in the Payment Services Regulations 2017.

However, 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.

Considering the above, Santander ought reasonably to have been on the lookout for any transactions that would indicate Mrs R was at risk of financial harm from fraud. And where it identifies a risk, it ought reasonably to intervene in that payment, ascertain the purpose of it, and provide warnings proportionate and relevant to the risks presented.

Santander was also a signatory to the Lending Standards Board's Contingent Reimbursement Model (the CRM Code) at the time some of the payments were made. Under that Code, firms are expected to reimburse customers that are victim of fraud, subject to a number of conditions and exceptions.

The first payment Mrs R made toward the investment was made prior to the introduction of the CRM Code. And as the Code was not being applied retrospectively, I must consider this payment under the general considerations I have set out above.

*Could Santander have prevented Mrs R from making the first payment made?*

The payment in question was for £10,000, which when looking at Mrs R's usual account activity did stand out. It was a far greater payment than she typically made and was to a new payee. That meant that the payment did present high-risk indicators of fraud. And that risk ought reasonably to have caused Santander to intervene in the payment made and probe the purpose of that payment, to eliminate the possibility of financial harm from fraud.

However, I agree with the Investigator's assessment that any intervention likely would not have uncovered that fraud, nor prevented Mrs R from continuing to make payments toward the purported investment.

Santander does not hold any obligation to advise Mrs R on the investment choices she decides to make. So, the fact that this was a high-risk investment, not regulated, and based abroad, wouldn't be sufficient to say that it was fraudulent. Many legitimate investments are carried out in such a manner, and Santander's capability in distinguishing between the legitimate and fraudulent is obviously limited.

What is clear is that the investment presented to Mrs R didn't feature any of the characteristics typically associated with fraudulent investments. She was provided with professional marketing literature, had agents attend her property to discuss the opportunity, and was being offered returns not wholly unrealistic. The business was also formally registered with Companies House, and no apparent adverse information was published regarding it online at the time.

While Santander ought to have warned Mrs R about the possibility of fraud, and provide her with general warnings—pointing out the common characteristics of investment fraud—these likely wouldn't have resonated with Mrs R as they weren't a feature of the investment presented to her. As such, I don't find it likely that Santander would have been able to prevent Mrs R from making this payment. It therefore follows that it can't be held liable for her loss.

*Should Santander have reimbursed the remaining payments, covered by the CRM Code?*

The CRM Code's starting position is that a customer who has been victim of an authorised push payment fraud should be reimbursed, unless the signatory can demonstrate one of the exceptions to reimbursement can be relied upon.

Here, Santander has not relied on any such exceptions. Instead, it has argued that the matter is a private civil dispute and therefore falls outside the scope of the CRM Code. I have already explained why I disagree with that position, so I don't intend to cover this point again.

However, for the avoidance of doubt, I agree with the findings set out by our Investigator that no apparent exceptions to reimbursement apply in this case, and broadly for the same reasons. In summary, I have noted that:

- Mrs R did make the payments with a reasonable basis of belief that they were for a legitimate investment. Despite being an inexperienced investor, she did carry out some due diligence and met with representatives of the investment firm in person.
- Mrs R wasn't contacted unexpectedly by the investment firm; she was contacted after seeking investment opportunities.
- The returns Company G said were achievable were not unrealistic.
- Mrs R was receiving returns on her investment at the point she made later payments.
- Santander has not relied upon Mrs R ignoring any effective warnings it provided, and any warnings likely would not have made a material difference to Mrs R continuing to make payments.

Overall, I'm satisfied that an exception to reimbursement cannot be relied upon here. It therefore follows that Mrs R is entitled to full reimbursement, taking into account credits she received from Company G.

### **Putting things right**

Our Investigator has already laid out a detailed summary of the payments Mrs R made from her Santander account, along with the credits she received from Company G to other accounts she held. Therefore, I won't lay those out in detail again.

Mrs R paid a total of £45,000 to the fraudsters in this case over two accounts and received £11,500 in credits to an account she did not hold with Santander. Santander should therefore divide the credits by the total amount paid. Deducting that same percentage from the value of each payment after and including the payments caught by the CRM Code gives the amount that should be reimbursed for each payment.

Here the credits amount to 25.56% of the total paid to the scam. It follows that the outstanding loss from each payment after and including the CRM Code caught payments should be reduced by the same percentage. That means Santander should reimburse 74.44% of each payment.

Please note that, for ease of reading, I've rounded the relevant percentages down to two decimal places, but Santander should perform the calculation I've set out above to arrive at a more precise figure, as I have done to arrive at the figure below.

After taking the steps set out above, I calculate Mrs R's outstanding loss from these payments to be £11,166.67.

As most of the information I have relied upon to reach my findings was available to Santander at the time it considered Mrs R's claim, it should also pay 8% simple annual interest on this amount from the date it declined, or ought to have responded to, her claim under the provisions of the CRM Code. That's to reflect the deprivation of those funds since the date they ought to have been reimbursed.

### **My final decision**

For the reasons I have given above, I uphold this complaint and direct Santander UK Plc to settle this complaint as I have set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs R to accept or reject my decision before 27 March 2026.

Stephen Westlake  
**Ombudsman**