

The complaint

X complains that HSBC UK Bank Plc ('HSBC') won't refund the money they lost after falling victim to a scam.

What happened

In 2023, X was made aware of an investment opportunity with a company, who I'll refer to as V. X was told V would be trading on their behalf.

X received an agreement from V, which set out the terms of the investment, and X made a payment of £16,000 in February 2023.

X didn't receive any returns and was unable to withdraw their investment with V. So, they reported the fraud to HSBC, asking to be refunded.

HSBC told X they couldn't give an answer on their fraud claim as they were awaiting industry guidance as to whether the payments are covered by the Contingent Reimbursement Model Code (CRM Code).

X wasn't happy with HSBC's response, so they brought a complaint to our service.

An investigator looked into X's complaint and upheld it, recommending a full refund. The investigator said they had sufficient evidence to reach an answer and didn't need to wait for the outcome of the FCA investigation. The investigator was satisfied that X was the victim of an APP scam, their payment was covered by the CRM Code, and HSBC couldn't rely on an exception to reimbursement.

HSBC disagreed with the investigator's opinion, saying we are premature in reaching an answer as we aren't party to the whole facts. HSBC referred to the ongoing enquiries by Law Enforcement and the FCA. HSBC also don't feel it's fair to reach an answer on the balance of probabilities, saying an answer should be reached based on the facts. HSBC believe this was a failed investment which couldn't have been detected or prevented. HSBC also say the returns were too good to be true and X should've been concerned.

As HSBC didn't agree with the investigator's opinion, the case was passed to me to review.

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 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.

Where there is a dispute about what happened, and the evidence is incomplete or contradictory, I've reached my decision on the balance of probabilities. In other words, on what I consider is most likely to have happened in light of the available evidence.

In broad terms, the starting position at law is that a bank such as HSBC are expected to process payments and withdrawals that a customer authorises it to make, in accordance with the Payment Services Regulations (in this case the 2017 regulations) and the terms and conditions of the customer's account.

Is it appropriate to determine this complaint now?

I have considered whether it would be appropriate to delay my decision in the interests of fairness, as I understand the FCA and police investigation is still ongoing.

There may be circumstances and cases where it's appropriate to wait for the outcome of external investigations or related court cases. But that isn't necessarily so in every case, as it may be possible to reach conclusions on the main issues on the basis of evidence already available. And it may be that the investigations or proceedings aren't looking at quite the same issues or doing so in the most helpful way.

I'm conscious, for example, that any criminal proceedings that may ultimately take place might concern charges that don't have much bearing on the issues in this complaint; and, even if the prosecution were relevant, any outcome other than a conviction might be little help in resolving this complaint because the Crown would have to satisfy a higher standard of proof (beyond reasonable doubt) than I'm required to apply (which – as explained above – is the balance of probabilities).

As for investigations by liquidators or administrators, these are normally made for the purpose of maximising recoveries for creditors. Sometimes they lead to civil proceedings against alleged wrongdoers, or against allegedly implicated third parties. But the claims may not be relevant to the issues on the complaint. And, even if they are potentially relevant, such claims are quite often compromised without a trial and on confidential terms, so the outcome is of little benefit to our service.

In order to determine X's complaint, I have to ask myself whether, on the balance of probabilities, the available evidence indicates that it's more likely than not that X was the victim of a scam rather than a failed investment. But I wouldn't proceed to that determination if I consider fairness to the parties demands that I delay doing so.

I'm aware that X first raised their claim with HSBC in November 2025, and I need to bear in mind that this service exists for the purpose of resolving complaints quickly and with minimum formality. With that in mind, I don't think delaying giving X an answer for an unspecified length of time would be appropriate unless truly justified. And, as a general rule, I'd not be inclined to think it fair to the parties to a complaint to put off my decision unless, bearing in mind the evidence already available to me, a postponement is likely to help significantly when it comes to deciding the issues.

For the reasons I discuss further below, I don't think it's necessary to wait for the external investigations to conclude for me fairly to reach a decision on whether HSBC should reimburse X under the provisions of the CRM Code.

Is X's payment covered by the CRM Code?

HSBC have signed up to the CRM Code, which requires firms to reimburse customers who have been the victims of Authorised Push Payment (APP) scams, in all but a limited number of circumstances.

But the CRM Code does not apply to private civil disputes, and defines what is considered an APP scam as, "*where the customer transferred funds to another person for what they believed were legitimate purposes, but which were in fact fraudulent*".

In order to decide whether X meets the definition of an APP scam, I need to decide whether the purpose they had for making the payment, and V had for obtaining the payment, was broadly aligned. And, if there is a significant difference in these purposes, whether it was as the result of dishonest deception.

X was making payments to V as part of an investment. I haven't seen anything that suggests X didn't think this was a legitimate purpose.

So, I've gone on to consider what purpose V had in mind and whether it was in line with what X thought.

In reaching an answer on what purpose V had in mind, I've considered the wider circumstances surrounding V, V's directors and any linked businesses.

The key information to this case is:

- V claimed to be regulated by the CSSF and had regulation pending from the FCA. However, both the CSSF and FCA have said this isn't true. Even after the FCA's intervention in April 2023, V still made claims to investors that it was regulated with the CSSF, which also wasn't true.
- The rates of returns that V promised were unsubstantiated. There is no evidence available that supports V trading successfully or generating the profits that it claimed it was making.
- The beneficiary bank has provided evidence that V lied at least twice when applying for accounts.
- Investors were told that their funds would be immediately moved to a trading account and used for Forex trading. Of the money that was sent to J (a director of V) and another party, less than half appears to have been potentially used for the intended purpose. Also, these funds weren't separated from the personal funds of J.
- Of the funds paid to V, less than 12% was returned to investors. Some investors did receive funds, but funds were also sent to J and other personal accounts and used for what appeared to be non-trading purposes.
- There were no payments from V to VF (the broker firm) – which is what X was told would happen. Instead around £2m in funds were sent to a cryptocurrency exchange and around £900k was sent to investors as returns. A receiving bank has shown that none of the funds received into V's accounts were used for the intended purpose of being sent to VF for trading in Forex.

Based on this, I'm satisfied it's more likely than not X's funds weren't used for their intended purpose and that V obtained the funds through dishonest deception. Also, I'm satisfied that there is sufficient evidence for me to reach an answer under the CRM Code, that X's payment meets the definition of an APP scam and is covered by the CRM Code.

The CRM Code says that X is entitled to a full refund unless HSBC can establish that an exception to reimbursement applies.

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 service; and/or the person or business with whom they transacted was legitimate.
- The customer ignored effective warnings, by failing to take appropriate action in response to such an effective warning.

* There are further exceptions outlined in the CRM Code, but they don't apply to this case.

Did X have a reasonable basis for believing the investment was genuine?

I'm satisfied that X did have a reasonable basis for believing the investment was genuine for the following reasons:

- X knew of other investors who were receiving regular returns, and the agreement with V said that foreign exchange was risky and could result in a loss, so the return wasn't guaranteed.
- X looked online and saw position reviews about V. He also reviewed their brochures, which looked professional, as did their website.
- The investment was referred to X by a broker who was FCA registered and who X felt was a respected source. X was also aware of another investor who was well regarded in the property investment industry. The involvement of these parties added validity to the investment and reassured X.
- V said they weren't registered with the FCA, but they were registered with a European regulatory authority. Also, V said they were applying for FCA regulation. All the paperwork that X received appeared to support what V told them.
- During their research, X didn't find any information that suggested V weren't legitimate or that the investment wasn't providing returns to investors.

Taking into account all of the information that X had available at the time of making their payment, I'm satisfied they had a reasonable basis for believing the investment was genuine.

HSBC say the return X expected was too good to be true. But X knew other investors who were receiving returns which supported what V had told them.

So, I'm not satisfied that HSBC can rely on this exception to reimbursement.

Did X ignore an effective warning?

When X made the payment, they told HSBC the payment related to an investment. In response, HSBC provided a warning which said:

If someone has told you to mislead us about the reason for your payment and choose the wrong payment type, stop. This is a scam.

Fraudsters can offer what appear to be genuine investment opportunities and may pressure you to invest your savings or transfer your current pension to a new scheme.

The warning went on to say X shouldn't proceed with the payment if they had been cold called or pressured to make the payment. It also recommended that X check if the company was genuine and authorised by the FCA and take time to talk to an independent adviser.

I'm not satisfied that this warning was effective as it refers to investments which are introduced by a cold call and where an investor is pressured to make payments. This didn't apply to X's situation with V. The investment was referred by someone who was FCA regulated and no pressure was applied to make X invest. While V wasn't FCA regulated, they said they were regulated by a European regulator and provided convincing evidence that they were applying for FCA authorisation.

This meant the warning wasn't impactful based on the circumstances under which X found the investment and the information they had about V. As such, I'm not satisfied that HSBC can say that X ignored an effective warning or rely on this exception to reimbursement.

As I'm not satisfied that HSBC can rely on an exception to reimbursement, X is entitled to a full refund of their loss.

The interest award

As part of our investigation, we obtained information which enabled us to reach our answer under the CRM Code, which was set out in the investigator's view. As HSBC weren't aware of that information until they received the view, I'm satisfied that it's fair for them to calculate the interest on the refund from the date of the investigator's view (being 2 March 2026) until the date of settlement.

Redress and the risk of double recovery of funds

As there is an ongoing investigation by external organisations, it's possible X may recover some further funds in the future, through that process. 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 that process in respect of this £16,000 before paying the award.

But, if HSBC elects to take an assignment of rights before paying compensation, it must first provide a draft of the assignment to X for their consideration and agreement.

Putting things right

To put things right, I require HSBC UK Bank Plc to:

- Refund X in full, being £16,000
- Pay simple interest of 8% on the refund, calculated from 2 March 2026 until the date of settlement*.

- In order to avoid the risk of double recovery HSBC is entitled to take, if it wishes, an assignment of the rights to any funds that may be recovered as a result of the court proceedings or ongoing investigations. If HSBC elects to take an assignment of rights before paying compensation, it must first provide a draft of the assignment to X for their consideration and agreement.

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

My final decision

My final decision is that I uphold this complaint against HSBC UK Bank Plc and require them to compensate X as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask X to accept or reject my decision before 18 May 2026.

Lisa Lowe
Ombudsman