

## The complaint

Mr S complains Santander UK Plc didn't do enough to protect him when he fell victim to an investment scam.

## What happened

The details of this complaint are well known to both parties, so I won't repeat everything again here.

In brief summary, Mr S came across an advert for an investment with 'S' on social media in early 2018. After completing his details he was contacted by S and set up an account to invest and made an initial payment.

Over the next three months, Mr S sent over 20 payments to S directly and one payment to 'F', a firm linked to S. These totalled £40,635.12. He's told us he was able to withdraw a small amount in this time which he used to buy a present for a family member (his statements suggest this was £445.25 on 8 March 2018).

In April 2018, after supposedly making a large profit, Mr S says he was encouraged by S to make a withdrawal. However, when he tried to withdraw funds, he was told by another agent he didn't have enough 'points' to do so. He was told to invest more first, but he had run out of funds and explained this. S encouraged him to borrow funds, which is when he says he realised he'd been scammed.

Mr S is represented and through this representative was able to complain to Santander in early 2023. It didn't uphold Mr S's complaint and said it wasn't responsible for his loss. He then brought his case to our service. Our investigator didn't uphold this complaint, Mr S's representatives disagreed with the outcome and asked for an ombudsman review.

I issued a provisional decision on this case in February 2024. My findings were as follows:

*It isn't in dispute that Mr S authorised the disputed payments he made to S and the payment to F. The payments were made by debit card using Mr S's legitimate security credentials. But I've thought about whether the bank should have reasonably intervened in any of these payments.*

*As previously explained by our investigator, I'm satisfied it was considered good industry practice for firms to have updated watch-lists with types of scams and potential fraudsters. And for those watch-lists to be updated and communicated internally within one month of an alert being posted by the FCA (Financial Conduct Authority) or IOSCO (International Organisation of Securities Commission). Firms should've then blocked any payments where it could be identified that money is being paid to these companies, as there were reasonable grounds to suspect fraud or a scam, and this justified an intervention by the firm before processing any payments.*

*Our investigator set out that there were both FCA and IOSCO warnings published for S prior to Mr S making any payments. The IOSCO alert was published in January*

2017 (from a report from December 2016) and the FCA warning was published in June 2017. So by the time Mr S made his first payment in January 2018, Santander ought to have updated its watchlist and detected that Mr S may have been at risk of being scammed. As a result, I consider it ought fairly and reasonably to have blocked or cancelled the payment/s until it had spoken to Mr S and alleviated these suspicions.

I consider a proportionate intervention in this situation would've been for Santander to have spoken to Mr S, as it needed to let him know about the warnings and confirm if he understood what this may mean for the firm he was attempting to pay. I have no reason to doubt Mr S would've been upfront about what he was doing. And considering he found the investment on social media and his first payment should've been flagged, I'm satisfied that if Santander had called him and warned him he was at risk of being scammed, the phone call would've most likely led him to decide not to go ahead with the first payment – or send any further payments to S, or pay F at all.

Mr S invested in F as part of this same scam and it was a linked firm to S. So had he not gone ahead with the payments to S, I don't consider he would've ever sent money to F.

While Mr S says he was investing in bitcoin, S advertised itself as dealing with other investment types which did need to be regulated. And I consider the fact it had been reported as operating without regulation in the UK, along with a scam warning from Santander, would've been enough for Mr S to decide not to go ahead. He didn't have a history of investing in this way, and the money he was planning on investing was a large sum he intended to rely on in the not-too-distant future. So I do think an intervention by Santander would've prevented Mr S investing with S (and F). So I consider it would be fair and reasonable in all the circumstances for Santander to reimburse his lost funds.

However, as is our standard approach in these cases, I've then considered whether Mr S should hold some responsibility for his losses. I'm satisfied it would be fair for a deduction to be made from this reimbursement.

Mr S has told us he believed S was genuine as he saw an advert for it on social media, on a platform he regularly used so trusted. He's also said he looked up S's name and saw positive reviews about the company online. However when I've searched for reviews of S from before Mr S started investing, I have found very few positive and instead many negative reviews, including on the review website Mr S told Santander he looked at.

From January 2017 onwards, there are multiple reviews online saying that S is a scam; an unregulated firm; and that you won't be able to withdraw your funds. And as above, the FCA had published a warning about S that could've been found through a normal internet search.

*Mr S has explained he's lost over £40,000 to this investment. I can't agree the checks and research he did into S are therefore proportionate to the amount he invested. I also can't agree that using a social media site regularly, equates to it being a trustworthy place to find investment opportunities. Reviewing Mr S's statements, he sent €2,750 on his first day investing with S, so he very quickly parted with a relatively large sum of money, despite seemingly doing either a very narrow search into who he was investing with, or choosing to ignore the negative reviews he found. Either way, I'm satisfied he should reasonably share responsibility for his loss in this case, so I'm satisfied it would be for and reasonable for Santander to reduce the compensation by 50%.*

*I have considered whether there are any other recovery options for Mr S in relation to these funds, but due to the time passed, he's not able to try and recover the funds through chargeback. And I don't consider he can use any other methods.*

*Mr S's representatives have explained the vulnerabilities he faced at the time of investing. But as Mr S has told us he was a regular social media user; found the advert and contacted S himself; and he's told us he was able to search for and find positive comments, I can't agree any of his vulnerabilities prevented him doing the necessary research to determine this was a scam. So these don't change my decision that responsibility should be equally shared.*

Mr S responded to the provisional decision and accepted it. Santander didn't respond by the deadline given, so the case has been returned 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.

As Mr S accepted the provisional decision and Santander didn't respond, I see no reason to change the findings I reached in my provisional decision, included above.

I find both parties in this case equally liable for the loss – Santander due to it failing to intervene when there was an active warning in place for the firm Mr S paid. And Mr S due to the level of due diligence I believe he carried out before parting with his funds.

### **Putting things right**

Santander UK Plc should:

- Refund 50% of the payments Mr S made to S and F, less any credits received – totalling £20,094.94 (rounded up to the nearest 1p)
- Pay 8% simple interest per year on each payment from the date of loss until the date of settlement.

### **My final decision**

For the reasons set out above, I uphold Mr S's complaint against Santander UK Plc and require it to settle this complaint in the way I've outlined above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 29 March 2024.

Amy Osborne  
**Ombudsman**