

The complaint

Ms R complains that Santander UK Plc (“Santander”) won’t refund over £39,000 she lost 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, Ms R fell victim to an investment scam in April 2022 after she was contacted by a broker ‘Terra Markets’ (“the scammer”). She was encouraged to invest, and accounts were opened in her name with several cryptocurrency platforms and electronic money institutions, which she was told were needed for trading. This included an account with ‘Wise’, to which she made several payments using her Santander debit card between 13-16 May 2022 totalling over £39,000. The funds were then transferred on again to a cryptocurrency account in Ms R’s name before finally being sent to the scammer.

As part of the scam, Ms R says that the brokers applied for loans on her behalf from several lenders, which she objected to, but said that cash then started being deposited into her Santander account. Ms R then started to cancel all the other loans that she received emails about, which included a loan that had been applied for with Santander. Ms R later realised she had been scammed and reported the fraud to Santander.

Santander refused to refund the money Ms R had lost as it said she had authorised the payments. However, it acknowledged that the service it provided could have been better, so it offered £200 compensation in recognition of the distress and inconvenience caused.

Our investigator didn’t uphold the complaint. He thought that Santander ought to have intervened when Ms R made the first scam payment of £9,528.50 on 13 May 2022 as it would’ve appeared unusual. However, the investigator didn’t think that any intervention would have ultimately prevented the fraud. He also thought Santander’s offer of £200 compensation was fair for the service issues Ms R experienced after reporting the fraud. Ms R disagreed, so the matter has been escalated to me to determine.

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 agree with the conclusions reached by the investigator and have decided not to uphold it for the following reasons:

- First, I’m aware that there are multiple firms involved in the sophisticated scam Ms R has fallen victim to, and that she has lodged complaints against each of them. I acknowledge that some firms may have refunded some of the money Ms R lost or reached a more favourable outcome than others. But that doesn’t mean that all other firms must follow suite and do the same thing. And while I have considered the scam and everything that happened collectively, I must consider complaints about each individual firm involved separately and on their own merits to decide if it has acted fairly and reasonably, which

is what I have considered in the circumstances of this case against Santander.

- It isn't in dispute that Ms R authorised the disputed payments she made to her Wise account using her Santander debit card (where her funds were subsequently transferred on again before reaching the scammer). The payments were requested using her legitimate security credentials provided by Santander, and the starting position is that banks ought to follow the instructions given by their customers in order for legitimate payments to be made as instructed.
- However, I've considered whether Santander should have done more to prevent Ms R from falling victim to the scam, as there are some situations in which a bank should reasonably have had a closer look at the circumstances surrounding a particular transfer. For example, if it was particularly out of character.
- Based on Ms R's account history, I'm satisfied the first scam payment of £9,528.50 she made on 13 May 2022 ought to have flagged as unusual. She had not made any payments of this value before, and I can see that the bank sent her an OTP asking her to confirm the transaction was genuine. But given the amount of money being transferred, I don't think this was proportionate. It would have been more appropriate for Santander to have got in contact and spoken to Ms R about the nature of the payment she was making at this point.
- However, even if Santander had intervened and spoken to Ms R at this stage, I'm not persuaded it would have ultimately prevented the scam. I say this because I can see it eventually did speak to Ms R in relation to a £6,000 payment she attempted on 16 May 2022 that was subsequently reccredited to her account. Ms R told Santander that she had taken out a loan for home improvements and was transferring funds to her own account with Wise as it was easier for her to use when it came to budgeting. Ms R says she wasn't forthcoming with the true nature of the payments because she had been coached by the scammer to lie to the bank if questioned about the payments she was making.
- So, overall, even if Santander *could* have intervened sooner and asked more probing questions, I'm not persuaded this would have likely revealed she was falling for a scam or ultimately prevented her loss. Therefore, I don't think its failure to look more closely into the payments can be considered the proximate cause of Ms R's loss in these circumstances, as it seems likely she would have continued to provide false information in order to make the payments. As such, I don't consider it would be fair and reasonable to hold Santander liable for failing to prevent the scam.
- Even if Ms R would have been honest about what she was doing, it also seems unlikely that any scam warning or request to carry out further research would have revealed the scam either. Ms R says that she researched the broker online at the time and saw nothing negative indicating that it was a scam. She saw that they had offices based in London and were calling from a London number, so she was satisfied they were legitimate. And after cancelling the loans applied for by the scammer, Ms R said she was uncomfortable with the way the investment was being made and wanted to pull out. But she said she was reassured and pressured by the scammer that if she continued with the investment, all loans charges and fees would be reimbursed upon payment of her dividends. So, despite having concerns and misgivings about what was happening, she continued to make payments to the scammer, which leads me to believe that any earlier warning or further questioning from the bank would have likely been ineffective.
- I understand that Ms R is also unhappy with the way Santander handled her claim. I can see that Santander's investigation could have been handled better because, amongst

other things, she had to contact it several times and go through what had happened again with different agents, and also had issues accessing her money while her account was blocked. So, I appreciate the service Ms R received would have been frustrating and no doubt caused her further distress. However, Santander has offered £200 compensation in recognition of its poor handling of her fraud claim which, I understand Ms R does not feel is commensurate to the experience she had had. But overall, I'm satisfied this amount is fair and in line with the sort of award our service would make in these circumstances. So, I won't be asking Santander to pay any further compensation.

I appreciate this will likely come as a disappointment to Ms R, and I'm sorry to hear she has been the victim of a cruel scam. However, I'm not persuaded that Santander can fairly or reasonably be held liable for her loss in these circumstances.

My final decision

For the reasons given above, I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms R to accept or reject my decision before 23 November 2023.

Jack Ferris
Ombudsman