

The complaint

Miss E complains that Wise Payments Limited won't refund money she lost following her falling victim to a scam.

What happened

Miss E has told us that in May 2020 she fell victim to a scam.

The background to this complaint is well-known to both parties, so I won't repeat it in detail here. But in summary and based on the submissions of both parties, I understand it to be as follows.

Miss E has told us she was approached by a friend about an investment opportunity, involving Forex trading. Miss E's friend had told her he had been investing with a company for a few months and the performance had been positive. Miss E's friend was able to show her the trading platform he was using, which included details of his trading history and profit and loss.

At the time Miss E has said she was going through a difficult time and was particularly interested, as she felt the opportunity may help her with her financial circumstances. Miss E has told us she found the company's website online and saw that it appeared to be regulated in Canada. She's said she was also provided details of a 'Customer Support Manager' contact at the company, who confirmed the company was registered and, alongside being regulated in Canada, had an application submitted to also become regulated in the UK.

Believing this to be a genuine investment opportunity Miss E went ahead and, in May 2020, started to deposit money into the trading account that had been set up for her. Miss E initially funded the payments from an account she held with another bank. Miss E has said that she had access to the trading account and was able to deposit/withdraw funds and view her transaction history.

On 2 June 2020, Miss E made a further deposit into her trading account, but this time used her Wise Payments account, which she's said she usually used to receive funds from a family member. Miss E went ahead and made the following payments using her Wise Payments account;

Date	Amount
2/6/2020	€2,719.37
1/9/2020	\$4,995.00

Miss E has said that her trading account was showing a profit and she was allowed to make the following withdrawals from her trading account;

- 16/7/2020 £4,412.81 (credited to an account Miss E held with another bank)
- 10/8/2020 £4,857.91 (credited to an account Miss E held with another bank)

- 28/8/2020 £2,980.00 (credited to Miss E's Wise Payments account)

But she became suspicious when another friend compared the activity on the company against other broker's graphs and realised the details were being manipulated.

Miss E complained to Wise Payments. In summary she said when the payments were made, she didn't receive any warnings and she believes Wise Payments should have flagged that she was sending money internationally.

Wise Payments looked into things and issued its final response on 3 November 2020. It didn't uphold Miss E's complaint, it said the responsibility of ensuring the legitimacy of the recipient lies with the sender of the payments, in this case Miss E. It added that it didn't consider it could be held liable for unforeseeable losses.

Unhappy with the response, Miss E brought her complaint to this service. One of our investigators looked into things, but didn't uphold the complaint. In summary, our investigator concluded that Wise Payments ought to have identified the second payment Miss E made was unusual, due to it being a higher payment than she had made before. So, she thought Wise Payment ought to have contacted Miss E before allowing the payment to be progressed.

But our investigator wasn't persuaded that it would have made a difference, as she thought Miss E would have had enough information at the time to think she was dealing with a legitimate company. So even if Wise Payments had of intervened and asked further questions about the payment, our investigator thought Miss E would have wanted to proceed in making it. She thought Miss E would have been able to answer any questions plausibly, so that Wise Payments wouldn't have had any concerns or suspicions about the payment.

Miss E didn't agree with our investigators view. In summary she disagreed with the assumption that she would have continued with the payment. She added that she would have taken any warning or concern raised by Wise Payments very seriously.

As agreement couldn't be reached the complaint has now been passed to me for a 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.

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.

I'm very aware that I've summarised this complaint briefly, in less detail than has been provided, and in my own words. No discourtesy is intended by this. Instead, I've focussed on what I think is the heart of the matter here. If there's something I've not mentioned, it isn't because I've ignored it. I haven't. I'm satisfied I don't need to comment on every individual point or argument to be able to reach what I think is the right outcome. Our rules allow me to do this. This simply reflects the informal nature of our service as a free alternative to the courts.

I accept that these were authorised transactions even though Miss E was the victim of a sophisticated scam. She authorised the payments and under the Payment Services Regulations 2017 she is presumed liable for the loss in the first instance.

However, taking into account the law, regulators rules and guidance, relevant codes of practice and what I consider to have been good industry practice at the time, I consider Wise Payments should fairly and reasonably:

- Have been monitoring accounts and any payments made or received to counter various risks, including anti-money laundering, countering the financing of terrorism, and preventing fraud and scams.
- Have had systems in place to look out for unusual transactions or other signs that might indicate that its customers were at risk of fraud (among other things). This is particularly so given the increase in sophisticated fraud and scams in recent years, which payment service providers are generally more familiar with than the average customer.
- In some circumstances, irrespective of the payment channel used, have taken additional steps, or made additional checks, before processing a payment, or in some cases declined to make a payment altogether, to help protect customers from the possibility of financial harm from fraud.

I've thought carefully about Wise Payment's obligations. In this case, I need to decide whether Wise Payments acted fairly and reasonably in its dealings with Miss E, when Miss E made the transfers to a fraudster and when she reported the fraud, or whether it should have done more than it did.

So, I've thought about whether the transfers Miss E made were out of character and unusual. I can't fairly say that the first transaction Miss E made was so unusual or suspicious in comparison to her usual account activity, it ought to have alerted Wise Payments that Miss E may have been at risk of financial harm. I say that as a customer funding an account specifically to make international payments, as happened here, is unlikely to have stood out as being remarkable, suspicious or unusual activity to Wise Payments and is broadly in line with what it would expect to see from a customer. And I'm mindful, from the statements I've seen of Miss E's account, she has made outgoing payments internationally from this account previously.

Our investigator thought the second payment was unusual and ought to have led Wise Payments to intervene. But in the circumstances of this case, I think it is finely balanced as to whether Wise Payments ought to have intervened. The second payment, for \$4,995, appears higher than any amount Miss E has paid previously. But I also have to consider that in the six months leading up to the scam, Miss E appears to have used the account infrequently, so there is only a limited transaction history for Wise Payments to compare this payment against. I'm also mindful that the service Wise Payments provides is quite typically aimed at sending funds abroad, so I don't think the fact this was an international payment would, in and of itself, have alerted Wise Payments that Miss E may have been at risk of financial harm.

But even if I considered Wise Payments should have intervened at the point Miss E made the second payment, which as I've said is finely balanced, I don't think it would have made a difference and I think it more likely than not Miss E would have continued to make the payment. I should be clear that I can't know for certain how events would've transpired if Wise Payments had handled things differently. I must reach a conclusion on the balance of probabilities and that conclusion must be informed by the available evidence.

Having considered this carefully, I'm not persuaded that a proportionate intervention by Wise Payments would've prevented the scam from taking place. While it is now known with the

benefit of hindsight that Miss E was being exploited by a fraudster, I don't think it's more likely than not that a Wise Payments employee would have been able to identify that Miss E may have been at risk of financial harm, by asking her questions about the investment.

If Wise Payments had spoken to Miss E, at the point she attempted to make the payment of \$4,995, I've no reason to doubt that she would have told it the purpose of the payment was to invest.

With this in mind I'd have expected Wise Payments to ask Miss E some further questions about the payment, in the context of the particular features of an investment scam. For example, it could have asked questions such as, but not limited to, what the payment was for, whether Miss E had been looking to invest, what research had she done, whether she had been cold called and what rate of return she was being offered. Had it asked these, or similar questions, I'm persuaded Miss E would have been able to confidently answer these questions without concerning Wise Payments that she might be at risk of financial harm or the victim of a scam.

I say that as Miss E hadn't been cold called and the investment had been recommended to her by a friend. She had also seen the platform that was being used and the profits that were being made. Alongside this Miss E, at the time she was making the second payment through her Wise Payments account, had already made withdrawals from her trading account – with some of the funds crediting her Wise Payments account. I'm also mindful that Miss E would have been able to explain that she'd carried out research and had satisfied herself that the firm she was dealing with was regulated by Canadian authorities, as well as informing Wise Payments that she had reviewed the company's website and the services it provided.

I'm persuaded, on balance, it's more likely than not the answers Miss E is likely to have given would have been sufficient to reassure Wise Payments that she wasn't at risk of financial harm. From the information I've seen and considering the circumstances of what was happening, I'm persuaded it's more likely than not Miss E would have been confident she was making a payment to invest in what seemed like a legitimate source.

The final point I've considered is whether Wise Payments acted quickly enough to recover the funds once it was notified of the scam. It contacted the receiving bank, but I can't see that it ever received a response to its requests and it hasn't been able to recover any funds. Given some time had passed between Miss E making the transfers and realising it was a scam, even if the receiving bank had responded, it seems very unlikely that any of Miss E's money would have remained. I say this as typically, fraudsters will more often than not move money on very quickly after the payments have been made. So, on balance I think Wise Payments have taken reasonable steps to try and recover the money.

It's very unfortunate Miss E has lost this money in this way, and I understand the whole experience has been deeply upsetting for her and I don't underestimate her strength of feeling. But in the circumstances, I don't think I can fairly or reasonably say Wise Payments should have done more to prevent Miss E from losing this money. So, I don't think it would be fair for me to ask Wise Payments to refund the loss.

My final decision

My final decision is that I don't uphold this complaint against Wise Payments Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss E to accept or reject my decision before 18 February 2022.

Stephen Wise
Ombudsman