

## The complaint

Mr D complains that Wise Payments Limited ("Wise") won't refund money he was tricked into transferring to fraudsters after he fell victim to two investment scams.

## What happened

The detailed background to this complaint is well known to both parties. So, I'll only provide a brief overview of some of the key events here.

In brief, Mr D opened an account with Wise in February 2019. Between February 2019 and January 2020, he sent seven payments totalling \$25,550.31 to what he believed was to a legitimate investment company - I'll refer to as AG. He met with a representative for AG at what he believed to be the company offices whilst he was on a business trip in Hong Kong. While there, he's told us he was provided with information about the company and was trained on how to use the trading platform. He agreed that the trading analyst would trade on his behalf as Mr D didn't have the time to do so himself. After he sent the payments to AG, Mr D explains that he realised his trading account was at a loss. He requested compensation for this and the return of his investment. Mr D told us that he didn't receive any money back but instead was asked to invest more. He stopped receiving a response from AG and the trading platform became unavailable.

In an attempt to try to recover/make back the money he'd lost, Mr D explained that he decided to invest with a second company based in Hong Kong also - I'll refer to as SY. Mr D proceeded to make two payments totalling around \$5,054.60 to SY. However, when Mr D later attempted to withdraw his funds in February 2020, SY stopped responding to him and this trading platform became unavailable.

In total, Mr D made nine payments from his Wise account totalling \$30,604.91. Unfortunately, Mr D had been liaising with fraudsters and had in fact fallen victim to two investment scams.

For ease I have outlined each of the payments Mr D made from his Wise account below:

<b>Date</b>	<b>Amount</b>	<b>Payment sent to</b>
25 February 2019	\$20 (\$24.33 including transfer fee)	AG
26 February 2019	\$3,000(\$3,004.33 including transfer fee)	AG
27 February 2019	\$1,000 (\$1,004.33 including transfer fee)	AG
6 March 2019	\$1,950 (\$1,954.33 including transfer fee)	AG

6 March 2019	\$4,000 (\$4,004.33 including transfer fee)	AG
9 March 2019	\$8,000 (\$8,004.33 including transfer fee)	AG
14 April 2019	\$7,550 (\$7,554.33 including transfer fee)	AG
8 January 2020	\$5,000 (\$5,004.60 including transfer fee)	SY
8 January 2020	\$50 (£41.74 GBP)	SY

Realising he'd been the victim of a scam; Mr D reported AG to the authorities in Hong Kong in February 2020. Mr D has told us that to date he has not received a response to this.

Mr D raised the matter with Wise in February 2021 and then complained in May 2021. Wise issued its final response in July 2021. Wise having looked into the matter said it couldn't be held responsible for the payments Mr D made as he had authorised them. In regard to the recovery of Mr D's funds, Wise said unfortunately there was no chance of recovery, given the time that had passed since the last successful transfer.

Mr D remained unhappy and so he referred the matter to our service. One of our Investigators looked into things, but he didn't recommend the complaint be upheld. In summary, he said he didn't think there was anything to indicate Wise ought to have been concerned about the payments Mr D made. He added that even had Wise asked questions about the payments, he didn't think this would've revealed the scam given that he'd met representatives for the company in person, attended it's offices and was able to see the trading account online. He added that while Wise might have attempted recovery of the funds, given that it had been two years since the payments had been made and they were international payments – he didn't think this reasonably would've made a difference in this case.

Mr D didn't agree. In summary he said:

- The BSI Code of Practice and the Contingent Reimbursement Model (CRM Code) were applicable to his case.
- That the payments he made were to an Asian account which he hadn't used before.
- That the frequency of the payments should have flagged to Wise as being unusual for the account.
- That three payments were stopped by Wise. Mr D doesn't think Wise went far enough and so an opportunity was missed to discuss the payments in more detail. He maintains had this happened the scam would've been prevented.

Our investigator considered Mr D's further comments, but they didn't change his assessment. He explained that Wise were not signed up to the CRM Code and, therefore, this does not apply to the payments he made. He also explained that the BSI Code which Mr D had referred to was created without the involvement of Electronic Money Institutes (EMIs) or Payment Institutes (PIs), which was applicable to Wise. He reiterated his position about the account activity and why he didn't think the scam would've been uncovered even had more questions been asked about the payments.

As no agreement could be reached, the case has been passed 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.

Having done so, I'm not upholding Mr D's complaint. I know this will be disappointing for him, so I will explain my reasons why.

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.

There's no dispute that Mr D authorised these transactions and that means that under the Payment Services Regulations 2017 and the terms of his account he 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 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 make 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'm aware Mr D has referred to the CRM Code which was implemented in May 2019 and the BSI Code of Practice. As our Investigator explained, the CRM Code is voluntary, and Wise isn't a signatory of the CRM Code. The BSI also isn't applicable here.

Given what I've set out above, Wise' obligations, when Mr D made the payments, was to protect its customers from fraud by being on the lookout for transactions that were unusual or out of character and to step in to prevent their consumer from being at risk of financial harm.

Based on what I've seen and been told, Mr D appears to have opened his Wise account for the purpose of sending the money to the fraudulent trading companies. This was opened two days prior to him making the first fraudulent payment. So Wise had no genuine account activity to compare his payments against. It is also true that many of Wise' customers will

use their accounts in the way that Mr D did – to send one or more payments in another currency to a payee overseas.

The first payment Mr D made to the new payee was for \$20. This was followed by further payments of \$3,000 and \$1,000, all of which I note were stopped by Wise's fraud team. When Wise reached out to Mr D on 27 February 2019 it asked Mr D for some more information before starting the transfers. It requested photographic/ID documentation from Mr D to verify himself – to check it was him that was sending the money. It also asked Mr D to explain the purpose for the payment. I can see Mr D replied to Wise on 28 February 2019 advising that the payments he was making were to an investment company and for the purpose of an investment. From the information I've seen, there is no suggestion that these checks were being made by Wise due to a possible risk of financial harm or that there was anything else to suggest that Wise were aware and/or that it ought to have been concerned about the payments Mr D was making.

While I recognised Mr D made numerous payments to AG, I have to keep in mind that after the first payment he made, the subsequent payments were from that point onwards being made to an existing payee – one that Mr D had confirmed to Wise he was making and for the purpose of investing. In the absence of any other genuine account activity to compare these payments to, I'm persuaded Wise would have seen a pattern of activity which would be broadly in line with how it would expect its customers to use its services. I'm mindful from the account statements Mr D has provided to our service that he also made numerous other genuine payments (between the account opening and reporting the scam payments) in several other currencies from his Wise account.

The payments Mr D made to AG did increase in amount over time, with him making an \$8,000 payment in March 2019. But as I've said above, by this point Mr D was making a payment to a payee he'd already sent funds to five times previously and who he'd paid since the opening of the account. I'm not persuaded Wise ought to have been concerned about the payments Mr D was asking to make or that it ought fairly and reasonably to have been put on notice that he might have been at risk of financial harm.

But in any event, even if I consider that Wise ought to have got in touch with Mr D (although, for the avoidance of doubt, I've not made a finding that I think it ought to have done so in this particular case), I'm not persuaded this would've made a difference to whether Mr D went ahead with the payments.

I recognise Mr D's strength of feelings and that he won't be in agreement on this point. But I can't ignore that Mr D has told us that he visited what he believed at the time to be the offices for the investment company whilst he was on a business trip, met with a representative and was trained in how to use the trading platform. All of which satisfied Mr D that he was dealing with a legitimate investment company and making payments towards genuine investments. Taking these factors into account, I can't safely conclude that intervention would've caused the scam to unravel. Given the above, I think the scam had a high degree of sophistication and its one Mr D was clearly taken in by. Had he been asked about the payments; I'm persuaded the answers he more likely than not would've given wouldn't have caused Wise concern.

For completeness, Mr D then made two payments to a new payee - SY in January 2020 after falling victim to a second investment scam. By this point, Mr D had made numerous payments in US Dollars and other currencies from the opening of the account. For the reasons I've already set out earlier, I don't think these payments ought to have caused Wise concern.

This means that, I can't fairly and reasonably say that Wise could have done more here but even if I consider that it should've, I don't think it would have made a difference to Mr D's position. So, while I know this will be very disappointing for Mr D, I don't think Wise has acted unfairly by declining to refund the payments.

Wise, within its final response letter in July 2021, said scammers usually move the funds on and that there was no chance of recovering the funds Mr D had lost. It raised that the last transfer Mr D made to the investment company was years ago. I've not seen evidence that Wise attempted to recover the funds, although that's not to say that an attempt wasn't made – simply that I've not seen evidence that shows this. And while our service would expect Wise to attempt to retrieve Mr D's money, in the circumstances of this particular case, given that the payments were reported years after they were made, I find it unlikely the funds would have still been available in the account. With this in mind, I don't find Wise would've been successful in recovering Mr D's funds to his account, regardless of any action to recover them.

Overall, while I appreciate Mr D has been the unfortunate victim of two investment scams, I think Wise' decision not to refund him in this instance was fair and reasonable in the circumstances. I say this because it followed Mr D's instructions to make the payments and I haven't seen any reason why it shouldn't have done this. And unfortunately, given the time that passed since Mr D made the payments and him reporting the scam to Wise (years later), on balance, I don't think Wise would have successfully been able to recover the funds Mr D sadly lost.

### **My final decision**

For the reasons given above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 1 March 2023.

Staci Rowland  
**Ombudsman**