

The complaint

Mr S complains that Revolut Ltd didn't do enough to protect him when he fell victim to an investment scam and lost money.

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.

Between September and October 2020 Mr S made a series of nine payments, totalling \$52,400 to two companies (I'll refer to as 'Company A' and 'Company T') which he believed offered investment trading platforms, trading in Forex and gold. Mr S said he was told the companies could guarantee 100% returns because the trading was done automatically using an intelligent trading system. Mr S had been introduced to the investment opportunity by an individual he'd met through a dating app.

Transaction number	Date	Amount	Type of transaction
1	23/09/2020	\$100	Transfer to new beneficiary 'A'
2	24/09/2020	\$2,500	Transfer to beneficiary A
3	28/09/2020	\$5,000	Transfer to beneficiary A
4	08/10/2020	\$4,500	Transfer to new beneficiary 'B'
5	13/10/2020	\$3,300	Transfer to new beneficiary 'C'
6	13/10/2020	\$6,000	Transfer to beneficiary C
7	16/10/2020	\$7,000	Transfer to beneficiary C
8	21/10/2020	\$11,500	Transfer to beneficiary C
9	22/10/2020	\$12,500	Transfer to beneficiary 'D'
	27/10/2020	-\$4,500	Refund
	Total loss	\$47,900	

Mr S said before signing up he decided he wanted to trade on his own without any pressure, which had been agreed. But having signed up he was told he shouldn't trade manually and should trust the algorithm. Having made the transfers Mr S says he saw his investments making good returns, but when he tried to withdraw money his requests were refused, or he was given excuses why he couldn't make a withdrawal at that time. Mr S was also pressured to repeatedly increase his funds on the platform to enable him to trade manually. After a time, Mr S realised he'd been the victim of a sophisticated investment scam. He contacted Revolut to seek its help to recover his lost funds. One of the transactions Mr S had made (\$4,500) was later refunded to him, meaning his total loss was \$47,900.

Revolut contacted the beneficiary banks but they advised that no funds remained in the receiving accounts. Revolut confirmed to Mr S that it wouldn't refund the money he'd lost as he'd authorised the transactions and it had processed them correctly.

Mr S complained to the Financial Ombudsman Service. He said Revolut hadn't done enough to protect him from the financial risks of fraud. He said it had failed in its duty of care and should specifically have warned him about the dangers of sending money offshore and that he'd have little to no protection if anything went wrong.

While waiting for the Financial Ombudsman to consider the complaint, Revolut revised its position and offered Mr S a partial refund of \$16,900. It didn't explain how it had reached this figure. Mr S didn't accept Revolut's offer.

Our Investigator upheld the complaint. He considered Mr S' transactions were out of character for him and concluded Revolut ought to have intervened when the first scam payment was made. Had it done so, our Investigator thought Mr S would have become aware of the scam and wouldn't have gone ahead with the subsequent transactions. He recommended Revolut refund the full amount Mr S lost, plus interest.

Revolut disagreed with our Investigator's opinion and asked for the case to be referred to an Ombudsman for a final decision. It said it had complied with the terms of the account when it processed Mr S' transactions in line with his instructions. It disagreed the transactions were out of character for Mr S' usual use. It noted he'd previously made transactions for similar and larger amounts than the ones involved in the scam. It said he was also known to carry out transactions in other currencies. It also argued that Mr S had failed to take reasonable care or carry out his own due diligence before making the transfers, so he was at least partly responsible for his loss. Revolut also thought it was suspicious that Mr S had been inconsistent when reporting his loss. It noted when he originally notified Revolut of the scam he'd only mentioned transactions 5 to 9, he later included transactions 1 to 4 in his formal complaint. And when he made a complaint to Action Fraud he stated his loss was even higher.

On 30 May 2022 I issued a provisional decision partly upholding this complaint. For completeness, I repeat my provisional findings below:

"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've reached a different outcome to our Investigator, so I'm issuing this provisional decision to allow everyone a further opportunity to comment before I reach my final decision.

I'm sorry to hear Mr S was the victim of a sophisticated and targeted scam and lost a considerable sum of money as a result. I understand this loss had a significant impact on his life, finances, and his wider family. In the circumstances, I can appreciate why he wants to do all he can to recover the money he lost. But I can only direct Revolut to refund Mr S' losses if it can fairly and reasonably be held responsible for those.

Firstly, whilst I've noted Revolut's concerns about how Mr S reported his loss, I'm satisfied the evidence supports that he's suffered losses as set out above (\$47,900). I don't think it's implausible that in the panic of discovering he'd been the victim of a scam Mr S may not have fully realised, or indeed calculated, the extent of his loss when he contacted Revolut through its chat function. He later clarified his position and has consistently stated that his loss relates to the nine transactions set out above. In relation to the Action Fraud report, I understand that Mr S made transfers to the scammers from other accounts in his name that weren't held with Revolut. So again, I don't think it's suspicious that he stated his total loss was higher than the sum he's seeking to recover from Revolut.

It is accepted that Mr S authorised the scam payments totalling \$52,400 from his Revolut account. So, although he didn't intend the money to go to the scammers, under the Payment Services Regulations and the terms and conditions of his account, Mr S is presumed liable for his remaining loss in the first instance. And under the terms and conditions of the account Mr S held with Revolut where a valid payment instruction has been received Revolut's obligation is to follow the instructions that Mr S provides.

However, taking into account the law, regulatory rules and guidance, relevant codes of practice and good industry practice, there are circumstances where it might be appropriate for Revolut as an electronic money institute ('EMI') to take additional steps or make additional checks before processing a payment in order to help protect its customers from the possibility of financial harm from fraud. An example of this would be payment instructions which are sufficiently unusual or uncharacteristic for the usual use of the account. In such circumstances I'd expect Revolut to intervene and ask more questions about the intended transaction before processing it. I'd also expect it to provide suitable warnings about common scams to help its customers make an informed decision about whether they want to continue with the payment. There might also be cases where it would be appropriate for Revolut to refuse to follow a valid payment instruction if there are good grounds to believe it is being made as a result of a fraud or scam.

Did Revolut do enough to identify the risk of financial harm from fraud?

So, the starting point for me to decide is whether any of the scam payments Mr S instructed to be paid from his Revolut account between 23 September and 22 October 2020 were unusual or uncharacteristic in relation to his typical account activity.

I've reviewed the account statements for the 12 months prior to the first scam payment being made. I think this is a sufficient sample size to fairly assess the account activity. I can see Mr S used his account irregularly, sometimes using it multiple times in one day and at other times not using it for several weeks at a time. He carried out transactions in several currencies, including British pound sterling, Canadian dollars and Euros. His transactions ranged in size from £1 to £5,000, albeit the larger transactions all appear to be transfers to his own accounts held elsewhere. Looking at Mr S's account usage as a whole, I can't fairly say that transactions 1 – 5 would have stood out to Revolut as unusual or uncharacteristic, because he'd made similar sized payments in the past. So, I don't think there was any reason for Revolut to have intervened and asked Mr S questions at this point.

But when Mr S gave the instructions for the sixth transaction (\$6,000 on 13 October 2020), I think there were now enough factors to suggest to Revolut that Mr S may be at risk of financial harm from fraud. I say this because by this point, in the space of a few weeks he'd:

- set up three new payees, who were all based in Hong Kong;*
- made transfers to those new payees totalling \$21,400, where he'd not previously instructed transactions in US dollars or made more than one large transaction (over £2,000) in any one month;*
- and most significantly, on 13 October 2020, Mr S instructed transfers totalling \$9,300, which was considerably more than he'd ever transferred before in one day.*

While I accept that each transfer on its own didn't appear particularly unusual or uncharacteristic, I think when the account usage as a whole is reviewed a picture emerges which is significantly out of character for Mr S. As such, I think this should have flagged as unusual or suspicious on Revolut's systems. At this stage, Revolut should have intervened and asked Mr S questions about his transaction.

Would appropriate intervention have affected Mr S's loss?

If the transaction had flagged up as being unusual, I'd have expected Revolut to have contacted Mr S, or required him to make contact before the instruction was processed. At that point, questions should have been asked about the nature and purpose of the payment he was making. I think it's reasonable to assume that he'd have answered honestly and explained he was seeking to make a transfer as part of an investment.

Given the prevalence of investment scams, particularly those perpetrated from overseas and given his transfer was going to Hong Kong, I think it would have been prudent for Revolut to have asked Mr S meaningful, probing questions about the transaction and his intended investment. For example, I think it should reasonably have asked Mr S how he was introduced to the investment and what checks he'd already carried out to confirm its authenticity. I think the fact that Mr S had been approached by the scammer via a dating app; he'd been communicating about the investment via WhatsApp; and had been told to make payments to named individuals would have been indicators that he may potentially be falling victim to an investment scam.

At this stage if Revolut had offered Mr S clear scam warnings and encouraged him to carry out his own checks into the company he was seeking to invest in, I think it's likely the scam would have been exposed at this stage. Even if the scam hadn't been fully exposed, I think Mr S would have thought the risk of continuing to invest with an unregulated firm was too high to accept – so he wouldn't have proceeded, and his future losses would have been prevented.

Had Revolut intervened on 13 October 2020 could Mr S have recovered any of his earlier losses?

I can see that the fourth transaction on 8 October 2020 was later refunded to Mr S. As such, this transaction doesn't factor into his overall loss.

I've given careful consideration to whether Mr S' earlier transactions could have been recovered, had Revolut intervened when he attempted to make the sixth transaction. But overall, I'm not persuaded that it would have.

I asked Revolut to enquire with the beneficiary banks when the funds left the beneficiary accounts. I understand that to date no response has been received. It's not unusual for banks, particularly those operating in other countries to not respond to requests such as this.

Where information is missing or incomplete, it's my role to make a judgement based on what I think is most likely to have happened.

In this case, given how sophisticated and seemingly well-orchestrated the scam was, I think its most likely following receipt of the payments, the scammers would have moved the money from the beneficiary accounts promptly. Our experience also shows that once money has been transferred outside of the United Kingdom it is unlikely that it will be recovered once a scam has been identified.

As such, I think it's unlikely any outstanding losses from the first five transactions would have been recovered even if Revolut had intervened on 13 October 2020.

Should Mr S bear some responsibility for his loss?

I have thought carefully about whether Mr S should bear some responsibility for his loss by way of contributory negligence (which might justify a reduction in compensation). And I think he should.

It's clear the material cause of Mr S's loss came from being tricked by a sophisticated scam. His loss could also have been minimised had Revolut taken appropriate steps to intervene when his transactions appeared unusual. But I don't think it's unfair to say Mr S wasn't as careful as I reasonably think he ought to have been before transferring a considerable sum of money to individuals he'd never met and who'd made offers that would seem too good to be true (for example guaranteed 100% returns).

Mr S wasn't a completely inexperienced investor. He'd had some experience of using an ISA platform to invest in funds. Mr S has told us that before investing he'd carried out a search on Company A on the internet. He noted that it had an entry on The Financial Transactions and Reports Analysis Centre of Canada ('FINTRAC') website. He said he was reassured by this even though the company he was liaising with appeared to operate out of Hong Kong. Mr S said he was also reassured by what appeared to be a legitimate website. He was able to log on to the website using details he'd been provided and view his transactions and fund transfers.

But Mr S has also explained that he'd had some suspicions about the company before he invested. For example, he queried why he needed to make his transfers in US dollars. When he was advised it was the "easiest way to transfer funds", he "didn't think this made any sense" but carried on with the transactions anyway. He also questioned why he'd been asked to pay a named individual (beneficiary A) but was falsely reassured that this was the name of the finance department. He was later instructed to make transfers to three other named individuals (beneficiaries B, C and D) but never questioned why he wasn't paying Company A or Company T. He's also explained that promises made by the scammers were quickly broken, for example before signing up to the platform he'd been reassured he could carry out his own trades, but this changed when he'd actually made his initial investment. Yet despite this Mr S made further investments.

Overall, while I appreciate Mr S carried out some checks before investing, I don't think he carried out sufficiently thorough checks to enable him to establish the legitimacy of either Company A or Company T before investing in high risk trading, and I think he ought reasonably have done more. In the circumstances I think it's fair that he bears 20% of the responsibility for what happened.

So, to put things right, Revolut should pay Mr S \$29,600 (80% of his avoidable \$37,000 loss related to transactions 6 to 9). To compensate Mr S for being deprived of this money, Revolut should also pay him interest on this amount from the date he made each payment to the date of settlement. I consider our normal rate of compensatory interest (8% simple per year) is appropriate in the circumstances. I say this as Mr S has told us that he borrowed money to invest, and was relying on an income from the investment for his day to day spending."

Response to my provisional decision

Revolut disagreed with my provisional decision. In summary it said:

- Mr S should be held responsible for 40% of his loss. It said Mr S was a professional with experience working in banks, so should have been aware of the risks associated with FX trading platforms and should have thought a 100% return guarantee sounded risky. He should also have been concerned that he'd been asked to pay named individuals and had been told transfers hadn't been received, when in fact they had.
- Had it intervened it wouldn't have made a difference as Mr S would have said he was making an investment.
- It also disagreed that 8% interest was fair and reasonable in the circumstances. It said there was no evidence Mr S was relying on an income from his investment to

fund his day to day spending. It also said he'd transferred his funds from another account that wouldn't have attracted such high interest rates. It said it should also only be liable for interest on delays caused by its actions.

Mr S responded and asked me to reconsider the complaint and my findings. In summary he said:

- His initial transfers (23 September to 13 October 2020) were also out of character and should have flagged on Revolut's system as suspicious. He said his previous high value transfers had been to his other personal account and never to anyone external. He asked that these initial transfers be repaid to him.
- Revolut's customer service fell short when he notified it of the scam, as he could only communicate via the chat function.
- He's suffered financial distress which was taking a toll on his health.

I'll address each parties' comments below. Now both parties have had an opportunity to comment, I can go ahead with my 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.

Response to Revolut's concerns

I've thought carefully about what Revolut has said but it hasn't persuaded me to reach a different decision on this case. Most of the points it has asked me to review were included in its original submissions and so had already been considered. But for clarity, I'll briefly address its concerns again here.

I accept that Mr S was at least partly responsible for his loss. I highlighted similar concerns to those raised by Revolut when reaching my provisional decision. But while I consider Mr S could have taken more care, he didn't act completely recklessly. He conducted some checks before making his initial transfers, and while he could have questioned things more than he did he didn't, for example ignore clear scam warnings or act against professional advice when choosing to invest. It's also important to note he was under the control of highly sophisticated scammers, who were able to falsely reassure him when he had questions or concerns. Overall, I consider a 20% deduction is fair in all the circumstances.

Despite its suggestion to the contrary, I'm satisfied that had Revolut intervened, as it should have, when Mr S attempted to make the second transaction on 13 October 2020 the scam would likely have been exposed at this stage.

It wouldn't have been enough for Revolut to simply ask Mr S what the purpose of his transaction was. Once Mr S informed it that he was seeking to make an investment it would have been appropriate and proportionate to ask Mr S who he was intending to pay and why; how he'd found out about the investment; and whether he'd been able to withdraw any money from his investments so far. I've seen nothing to suggest that Mr S would have been obstructive or avoided Revolut's questions, and so I believe he'd have answered these questions honestly. At this point I think Revolut would have been made aware that this had the hallmarks of a common and well-known investment scam and Mr S's further losses would have been prevented.

I've considered Revolut's concerns regarding the appropriate level of interest that's due to in this case, but I remain of the view that 8% simple interest is fair and reasonable in the

circumstances.

Mr S has told us that he'd relied on receiving an income from his investment for his day to day spending, and this is echoed in his communication with the scammers when he was trying to make withdrawals from the account. As such, I'm persuaded he has more likely than not lost use of that money and so our standard rate of interest is appropriate in the circumstances.

The time it takes us to decide a case is not discounted in any redress we award. And ultimately, Revolut had the opportunity to settle this case with Mr S directly, without the need for it to be referred to our service. So, I don't consider there should be any discount to the amount of interest Revolut needs to pay.

Response to Mr S's concerns

I've given very careful consideration to Mr S' suggestion that his initial transfers were uncharacteristic and should therefore be refunded, but I don't agree there was enough reason for Revolut to have intervened prior to Mr S' sixth transaction.

There is a balance to be struck between identifying payments that could potentially be fraudulent and minimising disruption to legitimate payments. Revolut can't be involved in every transaction. Instead it needs to make a judgement based on the information available to it.

It's not unusual in normal account usage to occasionally make payments that are larger than previous transactions. And usual account activity isn't a static concept, with every transaction that's completed this updates and informs the account's usual activity. I don't doubt scammers are aware of this fact and exploit it in the way they conduct scams and request payments. But I can't hold Revolut liable for a loss unless I can reasonably conclude it should have prevented it.

Mr S' first transaction to the scammers was for £100. While the transaction was to a new payee, it wasn't an unusually high amount, nor were there any other particular flags that should have caused Revolut to intervene at that point.

Mr S made his second transaction the following day. While this transaction was for a more significant sum, £2,500, it wasn't completely uncharacteristic for the account and it was to a payee that had already been used before.

The third payment to the same payee was made four days later. Again the sum wasn't completely uncharacteristic, particularly given the transaction made a few days before, nor would I say there was an obvious pattern emerging that may suggest Mr S was falling victim to a scam – for example multiple payments being made within a short space of time.

Similarly, when the fourth and fifth transactions were made, these were both to new payees, but the amounts weren't uncharacteristic, particularly when viewed in light of the recent account usage. While I appreciate by this stage a pattern had started to emerge, I don't think there was enough for Revolut to intervene until the sixth transaction. This is because at this point Mr S had transferred £9,300 in one day, which was significantly more than he'd ever done before. This fact, when combined with the other factors, should have given Revolut cause to intervene before processing the transaction.

I understand Mr S was also unhappy that when he notified Revolut of the fraud he was only able to contact it via its online chat function. While I can appreciate why Mr S may have wanted to speak to someone, Revolut is an EMI, this means it conducts its business

primarily online and via its app. Revolut doesn't offer a telephone-based customer service line. While I can understand Mr S' concerns about this, I cannot interfere with a business' operating model. And overall, I don't think Mr S was disadvantaged by Revolut's handling of his case.

In summary, while I've given careful consideration to Mr S's additional comments, I'm not persuaded to deviate from the outcome set out in my provisional decision.

Putting things right

To put things right, Revolut should pay Mr S 80% of his avoidable \$37,000 loss (related to transactions 6 to 9). As the disputed payments were first converted from £ sterling to USD before being sent to the scammers in USD, for the avoidance of doubt, Revolut Ltd should return the monies to Mr S in £ sterling. Mr S didn't send the full amounts he converted to the scammers and rather specified USD amounts. Revolut is only obliged to return the specified USD amounts Mr S transferred in accordance with the redress I've set out. When considering the rate of exchange, Revolut should apply the same rate of exchange Mr S obtained at the point of each applicable disputed transaction. This is to avoid any potential losses or gains.

To compensate Mr S for being deprived of this money, Revolut should also pay him 8% simple interest on this amount from the date he made each payment to the date of settlement.

My final decision

For the reasons given above, I uphold this complaint and direct Revolut Ltd to:

- Refund the £ sterling equivalent of \$29,600 (80% of transactions 6 – 9 = \$6,000; \$7,000; \$11,500 and \$12,500), as set out above.
- Pay 8% simple interest on this amount from the date the payments left the account to the date of settlement.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 11 August 2022.

Lisa De Noronha
Ombudsman