

The complaint

Mr H is unhappy that PrePay Technologies Limited (trading as Monese) won't refund transactions that happened as part of an investment scam.

What happened

- Mr H made several payments to who he thought was a legitimate investment broker. He's said he later tried to withdraw his profits from the trading platform, but the broker in fact took several payments from his account, totalling £7,000.
- Mr H raised the transactions that formed part of the investment scam with Monese, but it declined to refund them. Unhappy with this response, Mr H brought his concerns to our service to investigate.

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've reached the same outcome as our investigator for these reasons:

- The starting position under the Payment Services Regulations 2017 is that Mr H is liable for authorised payments and Monese is liable for unauthorised payments.
- It's accepted that Mr H authorised three payments in connection with this investment scam on 1 October, 5 November and 12 November 2021. So, in line with the PSRs, I consider he's liable for these. I also don't think there was anything particularly unusual about the payments to suggest that Monese ought to have intervened. And I don't consider there was a reasonable prospect of a chargeback claim succeeding. It follows that I think Monese's response to decline this aspect of Mr H's complaint was fair.
- I've gone on to consider the payments on 16 November 2021, which Mr H said he didn't make. Given Monese's references to 3D Secure, it seems these payments were made by card.
- The PSRs explain that a payment is to be regarded as authorised if Mr H gave his consent to it – and that consent must in the form and in accordance with the procedure agreed between him and Monese.
- I've reviewed Monese's terms and conditions to see what the agreed form and procedure was for consenting to card payments. They say Mr H can use his card online and that he might be asked to complete an additional security step before the payment is accepted. They also mention that he'll need to authorise a payment using a security code.
- So, practically speaking, for the circumstances of these payments, my understanding

is that Mr H would've needed to have used his card details with the merchant and approved the payments in his Monese app.

- Mr H explained he was led to believe he was withdrawing money from his trading account. He said that he added his card details onto a portal to do this. He also said he used remote access on his device so they could help him with the withdrawal. He believed that's how they approved the payments.
- Monese has disputed Mr H's version of events. It said it's more likely that Mr H approved them himself and this was an investment that didn't work out.
- Having considered this carefully, I'm persuaded by Mr H's testimony. In saying this, I have considered that:
 - Mr H has consistently reported these transactions as unauthorised. Monese has highlighted a delay in reporting them. But Mr H explained he tried to call several times but couldn't pass security.
 - Mr H provided evidence of his interactions with the fraudster that confirm the withdrawal request as well as the fraudster's assertion that there was a system failure with the withdrawal.
 - The quick succession of the payments and later attempted payments fits with what I'd expect to see with unauthorised spending.
 - Mr H's testimony is plausible. The remote access could've allowed someone else to complete the payments. I also note from our experience dealing with investment scams that Mr H's experience isn't unique – others have been tricked in very similar circumstances.
- It follows that I don't consider Mr H completed the entire form and procedure to consent to these payments – instead, I think the fraudster did at least some of these steps under the guise they were helping Mr H to withdraw money from his trading platform. So I'm satisfied the payments on 16 November 2021 were unauthorised.
- So, under the PSRs, Monese is liable for these transactions. That's unless it can show that Mr H failed with intent or gross negligence to comply with the terms of the account or keep his personalised security details safe.
- Monese hasn't suggested Mr H failed with intent. Equally, I don't think it's shown that he failed with gross negligence. I'll explain why.
- The fraudster had gone to lengths to build a relationship of trust and expertise with Mr H. They'd already used remote access software to help him invest and shown him a fake trading platform. They'd also allowed him to withdraw some of his "profits". In these circumstances, I can see why Mr H allowed them remote access to his device to help with the withdrawal from the platform – I don't think he was significantly careless for doing so.
- I can also understand why Mr H shared his card details – I don't think it sounds implausible these would be needed to receive money.
- I've carefully considered Monese's point that Mr H ought to have stopped the conversation and therefore, their remote access, when he saw that the first or second payment had left his account, instead of being paid in.

- Mr H has explained that he was told they'd made a mistake – he recalled they sounded genuinely panicked and they said they'd urgently rectify it. I'm conscious that it's easy to be critical of Mr H's actions with the benefit of hindsight. But Mr H was acting in the moment, and at this stage, he still believed he was dealing with his trusted broker who returned profits to him before. I can also see how, in a panicked situation, Mr H might have focused on working with them to get his money back, as opposed to reflecting on the risk he'd lose more money.
- It follows that I don't think his actions fell *so far below* what a reasonable person would've done that he failed with *gross* negligence. So I conclude Mr H isn't liable for the unauthorised transactions and Monese need to put things right – by refunding his losses from these unauthorised transactions alongside interest to compensate him for the time he's been out of pocket.
- Monese ought to have refunded these much sooner – and that's caused Mr H to worry a lot about his finances. So, in line with our investigator's recommendation, I also award £100 to reflect his non-financial losses.

My final decision

For the reasons I've explained, I uphold Mr H's complaint. PrePay Technologies Limited must:

- Pay Mr H the total of the unauthorised transactions, less any amount recovered or already refunded – I understand this to be £7,000.
- Pay 8% simple interest per year on this amount, from the date of the unauthorised transactions to the date of settlement (less any tax lawfully deductible).
- Pay £100 for Mr H's distress and inconvenience.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 27 January 2023.

Emma Szkolar
Ombudsman