

## **The complaint**

Mr A is unhappy that CB Payments Ltd won't refund money he was tricked into transferring to a fraudster.

## **What happened**

Mr A fell victim to an investment scam. As part of the scam he opened both an electronic money account provided by CB Payments and a cryptocurrency account provided by Coinbase UK. I understand that during the period of the disputed activity, Coinbase Europe replaced Coinbase UK as the provider of the cryptocurrency services. But, for simplicity and because it makes no material difference to the outcome, throughout this decision I've referred to Coinbase UK as the business that provided the cryptocurrency services.

Mr A deposited funds from his bank account into his CB Payments account. He used those funds to purchase cryptocurrency from Coinbase UK. The cryptocurrency was deposited into a cryptocurrency account provided by Coinbase UK before being sent off the Coinbase platform to the fraudsters.

Mr A complained to Coinbase and it responded on behalf of both CB Payments and Coinbase UK. It said that it had no relationship with the recipient of his cryptocurrency and couldn't recover his money. And, as he'd carried out all of the activity himself, it wasn't responsible for his loss.

Mr A referred the matter to our service. CB Payments argued that we had no power to consider the complaint as it didn't relate to the electronic money activities carried out by CB Payments, but rather the unregulated cryptocurrency activities carried out by Coinbase UK.

One of our investigators looked into the complaint. They thought there were aspects of it that we could consider – specifically those parts which related to whether CB Payments had carried out adequate checks when he opened his account and whether it had properly monitored his account for unusual or out of character activity. But, having considered those points, they didn't think CB Payments had made an error.

CB Payments didn't provide any further submissions, but Mr A asked for an ombudsman to review his complaint as he argued that it should have done more to warn him about the risk of investing in cryptocurrency and it didn't carry out appropriate anti-money laundering ("AML") and 'Know Your Customer' ("KYC") checks. He also pointed to various codes of practice which he believed CB Payments had breached.

As no agreement could be reached, the case was 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.

There no longer appears to be any dispute that our service cannot consider the actions of Coinbase UK. So, I don't need to comment on this further.

Neither is it in dispute that Mr A made the purchases of cryptocurrency from his CB Payments account himself. So, the starting point is that he, rather than CB Payments, is responsible for the loss.

However, in line with good industry practice, I agree that CB Payments should monitor its customer's accounts for activity that might suggest a customer was at risk of financial harm. This should include monitoring account activity for transactions that are unusual or out of character. In some circumstances, it should take additional steps, or carry out additional checks, before processing a payment, or in some cases decline to make a payment altogether, to help protect customers from the possibility of financial harm from fraud.

In this case, I've noted that Mr A's CB Payments account was opened for the purpose of investing in the fraudulent scheme. That means there was no history of undisputed transactions for CB Payments to compare the disputed activity against. I'm also conscious that a CB Payments account can only really be used for one purpose – to purchase cryptocurrency – and that's exactly what Mr A was doing.

So, I think it would have been difficult for CB Payments to recognise, based on the activity which took place, that Mr A was falling victim to a scam.

Mr A argues that CB Payments didn't carry out appropriate AML and KYC checks, but I don't agree. There doesn't seem to be any dispute that it was Mr A who opened the account and that the source of his funds was entirely legitimate. So, I don't think there was any reason for CB Payments to be concerned and neither is it clear how further checks of this nature would have prevented the scam. I also can't see anything about Mr A's customer profile that would have suggested a vulnerability or any reason for CB Payments to make further enquiries of him. I think it's also important to state that the aims of AML regulations aren't always aligned with preventing financial harm from scams.

I think that what Mr A suggests is that CB Payments should have obtained more detailed information about who the ultimate beneficiary of the payments was, as well as understand the broader circumstances behind them. I think this obligation would only be engaged where there was a reason for CB Payments to have found the activity unusual and suspicious. As I've already concluded there was no reason for it to have done this, I don't think it's made a mistake by not making further enquiries about the payments.

I'm afraid that much of the guidance quoted by Mr A does not apply to electronic money issuers such as CB Payments. The other guidance referenced does, I think, do little more than support the idea that CB Payments had an obligation to be on the lookout for unusual and out of character account activity (a fact I've already accepted).

Finally, I'm satisfied that Mr A's funds could not be recovered as it is accepted they were sent off the Coinbase platform, in cryptocurrency, to a third party.

### **My final decision**

For the reasons I've explained, I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 9 November 2022.

Rich Drury  
**Ombudsman**