

The complaint

Mr M complains he was the victim of an investment scam and that Revolut Ltd didn't do enough to recover his 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.

Mr M complains he was the victim of a scam involving eight online payments totalling £38,233.42 that he made from his Revolut account between April 2020 and June 2020. He'd been contacted by an individual who presented themselves as a broker offering investment opportunities for buying cryptocurrency. He was advised to open a new account with a cryptocurrency exchange company and pay £250 into the account as a deposit. He was then advised to invest funds into the platform, before loading the crypto onto his online wallet.

Mr M realised he'd been the victim of a scam when he was unable to withdraw his funds. He was able to recover some of the funds directly from the exchange company, but when he contacted Revolut, it told him it wasn't liable to refund the rest of the money because he wasn't vulnerable, he'd performed the transactions willingly and knowing the risk involved, and there were 15 days between the first and second payments, which was sufficient time to undertake due diligence. It also explained there was no way to recall the funds because the exchange company wasn't regulated by the FCA.

Mr M wasn't satisfied and so he complained to this service, arguing he should've been given a warning by Revolut before he made the payments to the exchange company because it wasn't registered with the FCA.

After Mr M complained to this service, Revolut agreed to partially refund the first payment, noting it was to a new payee and he wasn't given any warnings. But it said the transactions weren't unusual compared to Mr M's spending tendencies and it didn't think the warnings would have stopped him from completing the payments. So, it only partially refunded Mr S for the first transaction.

Revolut commented that Mr M had been negligent by not performing due diligence on the broker. It stated it wasn't responsible for refunding the rest of the money Mr M had lost because the exchange company hadn't been operating a scam, and even though it wasn't registered with the FCA, it was a legitimate company with a valid European licence. It explained its responsibility for Mr M had ended when the money was sent to the exchange company and that the transaction that ended in a scam wasn't done through Revolut. It explained that transfers to cryptocurrency exchange companies are treated as normal transfers that users would make to their external digital wallets. Mr M had a strong transaction history of crypto exchanges, so the transactions weren't unusual.

It further stated that, even if it had questioned the transfers, it didn't think it would have made a difference because the decision to send the money to scammers was made outside of

Revolut's platform and it couldn't have known what Mr M had intended to do with the money at that later stage.

Our investigator didn't think the complaint should be upheld. In reaching this decision, she reviewed Mr M's account statements and noted he had a history of investing in cryptocurrency, as well as making regular international payments. So, she didn't think the payments to the exchange company were uncharacteristic. She commented that, on 6 May 2020, the two payments made to the exchange company (combined) were the highest amounts debited from the account in any one day, so she thought Revolut ought to have taken steps to verify with Mr M if he had authorised the payments. But she thought that even if Mr M had been given a warning, he would still have proceeded to make the payments.

She explained the exchange company is a regulated crypto exchange firm in Estonia and there wasn't a published warning by the FCA about the alleged merchant involved, so she wasn't persuaded there was anything to suggest there was a scam.

Mr M wasn't satisfied with the outcome of his complaint and has asked for it to be reviewed by an ombudsman. He's questioned why Revolut reimbursed him for the first payment if it didn't think it was responsible. He's also explained the crypto trading in early 2018 was inside the Revolut application and he denies making any large payments to cryptocurrency exchange companies or brokers before the scam started.

His representative has argued that Revolut has admitted the financial activity was unusual, therefore it ought to have been concerned as to potential financial harm/fraud on the account. They don't accept Mr M wouldn't have listened to warnings, describing him as a vulnerable layperson who didn't know the hallmarks of scams. They've explained he would've been open and honest with Revolut, prompting it to provide advice as to how investment scams look and feel.

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.

I'm satisfied that although Mr M didn't intend the money to go to scammers, he did authorise the disputed payments. Revolut is expected to process payments and withdrawals that a customer authorises it to make. But, where the customer has been the victim of a scam, it may sometimes be fair and reasonable for the bank to reimburse them even though they authorised the payment.

Mr M has lost the payments he made to accounts that he held at a cryptocurrency exchange company. From the evidence I've seen, the money went to a genuine cryptocurrency exchange company in respect of which there were no existing warnings from the FCA or from other regulatory bodies on IOSCO.

As buying cryptocurrency is a legitimate activity, the extent of what we would expect Revolut to have done to protect Mr M is restricted to 'triggers', meaning I need to consider whether the transactions were so unusual that Revolut ought to have intervened to warn Mr M when she tried to make the payments.

Revolut, along with other payment services providers, should be monitoring accounts and be on the lookout for unusual transactions or other signs of fraud. Since Mr M first complained, Revolut has said it should've given Mr M a warning about the first payment he made to the exchange company and, as no warning was given, it has agreed to partially refund the payment.

The first payment Mr M made to the exchange company was for €2293.40 on 28 April 2020. The payment wasn't significantly large. It was being made to a new payee, but, as our investigator has said, Mr M had invested in cryptocurrency before and had also made regular overseas payments. Therefore, I don't think the payment wasn't unusual for Mr M's spending habits. Because of this, notwithstanding the fact Revolut has said Mr M should've been given a warning because it was being made to a new payee, I don't think it was so uncharacteristic or unusual that it should have triggered fraud alerts and, because of this, I don't need to consider whether Mr M would've done anything differently if he was given a warning when he made the first payment.

The later payments Mr M made to the exchange company were for €3,433.65 and €3,418.84 on the 6 May, €898.81 on the 14 May, €224.53 on the 15 May, €3,359.90 and €12,604.29 on the 19 May and €10,008.56 on the 1 June. The combined total of the two payments he made on 6 May was €6852.49 and I accept this was significantly larger than previous payments on the account. The payments he made on 19 May and 1 June were also large and out of character when considered in the context of Mr M's other account activity. So, I'm satisfied these payments should have triggered warnings.

However, I've considered whether such warnings would've made a difference to Mr M's decision to make the payments and I don't think they would. This is because, while I note Mr M's comment that he wasn't heavily into trading in cryptocurrency, he did have some experience and understanding of trading in cryptocurrency and certainly couldn't be classed as completely inexperienced. I haven't seen any evidence that Mr M has been scammed in the past and, as the exchange company was a legitimate company that was regulated overseas, I think it's unlikely a warning would have made a difference to his decision to make the payments, especially as there had been a gap of 15 days between the first and second payments, during which he'd had plenty of time to undertake due diligence on the broker.

I think it's likely that, had Revolut contacted Mr M and warned him about the risks of being assisted by a broker, he would have continued to make the payments. This is because, it appears he had seen positive reviews about the broker and was persuaded the investment was genuine. He'd also been permitted to make a small withdrawal.

Overall, I think at the point at which warnings should reasonably have been triggered it's unlikely this would have made any difference to Mr M's decision to make the payments. Consequently, I don't think Revolut can fairly be held liable for his losses.

I'm sorry to hear Mr M has lost money, but for the reasons I've explained, I don't think Revolut is to blame for this and so I can't fairly tell it to do anything further to resolve this complaint.

My final decision

For the reasons I've outlined above, my final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 19 October 2022.

Carolyn Bonnell
Ombudsman