

The complaint

Mr M complains that Revolut Ltd (Revolut) is refusing to refund him the amount he lost as the result of a scam.

What happened

The background of this complaint is well known to all parties, so I won't repeat what happened in detail.

In summary Mr M found an advertisement for an investment opportunity on YouTube. Mr M completed an initial contact form and paid around £200 for a trial period. This payment was made using another of Mr M's accounts with a different bank ('Bank A'). Bank A has since refunded this amount.

Mr M was then contacted by a business called Trade Review (X). Mr M found X to be professional and it had positive online reviews which convinced Mr M it was legitimate. Mr M was also able to make small withdrawals from the investment which added to his confidence he was dealing with a genuine business.

X persuaded Mr M to invest more and more of his funds. But when he tried to make larger withdrawals, he was told he would have to make further deposits first. At this stage Mr M realised he had fallen victim to a scam.

Mr M made the following payments to X using his Visa debit card through the cryptocurrency exchange - Binance:

1. 7 June 2022 - £990
2. 7 June 2022 - £2,000
3. 9 June 2022 - £5,000
4. 9 June 2022 - £1,700
5. 13 June 2022 - £5,000
6. 13 June 2022 - £1,700

Mr M was able to withdraw £345 from the investment with X, meaning he lost a total of £16,045 to the scam.

Our Investigator considered Mr M's complaint and thought it should be upheld in part. She said Revolut should have stepped in when Mr M made the second payment on 13 June 2022, and that it was likely that this, and the payments that followed would have been prevented if it had. So, she said Revolut should pay Mr M back the amounts lost in the last three payments he made.

Revolut disagreed, in summary it said it had met its obligations to Mr M and didn't think it should be required to refund him for any of the payments he made.

As Revolut disagreed this complaint has now been passed to me to decide.

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.

Recovering the payments Mr M made

As I haven't suggested that Revolut refunds Mr M's entire loss, I've also thought about whether it could have recovered his payments (i.e. the first two). The only recourse for potential recovery of the funds for the payments made by debit card would be via the chargeback scheme. Revolut attempted a chargeback for the payments Mr M made to Binance.

The chargeback scheme is a voluntary scheme set up to resolve card payment disputes between merchants and cardholders. The card scheme operator ultimately helps settle disputes that can't be resolved between the merchant and the cardholder.

Such arbitration is subject to the rules of the scheme, meaning there are only limited grounds and limited forms of evidence that will be accepted for a chargeback to be considered valid, and potentially succeed. Time limits also apply.

Mr M was dealing with X, which was the business that instigated the scam. But Mr M didn't make the debit card payments to X directly, he paid a separate cryptocurrency exchange (Binance). This is important because Revolut was only able to process chargeback claims against the merchant he paid (Binance), not another party (such as X).

The service provided by Binance would have been to convert or facilitate conversion of Mr M's payments into cryptocurrency. Therefore, Binance provided the service that was requested; that being the purchase of the cryptocurrency.

The fact that the cryptocurrency was later transferred elsewhere – to the scammer – doesn't give rise to a valid chargeback claim against the merchant Mr M paid. As Binance provided the requested service to Mr M it is reasonable that Revolut's attempt to recover Mr M's funds via the chargeback process was unsuccessful.

Should Revolut have reasonably prevented the payments Mr M made?

Mr M has accepted he authorised the payments he made to Binance, so the starting point here is that Mr M is responsible. However, banks and other Payment Services Providers (PSPs) do have a duty to protect against the risk of financial loss due to fraud and/or to undertake due diligence on large transactions to guard against money laundering.

Mr M made two relatively small payments to Binance on 7 June 2022. While he had not made payments to Binance before Revolut didn't prohibit such payments, so I don't think the payee alone ought to have been an automatic concern for Revolut. I therefore don't think it was unreasonable that Revolut's fraud prevention systems weren't triggered and that it didn't step in to prevent the payments being processed.

On 9 June 2022 Mr M made a further two payments to Binance of £5,000 and £1,700. Again, these payments individually were not for significant amounts, and I would not have expected the first payment on the day to have triggered Revolut's fraud prevention systems. But Mr M made the second payment of £1,700 within five minutes of making the first payment bringing the total amount in a very short space of time to £6,700.

I think these payments in quick succession should have triggered Revolut's fraud prevention systems and Revolut should have stepped in to have a meaningful conversation with Mr M about the reasons he was making the payments.

Mr M has explained that he thought the investment was genuine, and I have no reason to believe he would have been dishonest with Revolut about the reason he was making the payments. So, I think that if Revolut had a meaningful conversation with Mr M at the time it's likely he would have told Revolut he had become involved in an investment having found an advert on YouTube and was being asked to send money through Binance. With this information, and further probing, I think it's likely the scam would have been uncovered by Revolut and Mr M would not have incurred any further losses.

I think Revolut missed an important opportunity to step in and prevent this scam from continuing. So, I agree with our Investigator, Revolut should refund Mr M the last three payments he made to Binance.

Revolut has told us that Mr M's account was opened specifically for the purpose of making transfers, so it was reasonable that there were no triggers. But I think the operation of Mr M's account had changed significantly since it was opened, and Revolut ought to be familiar with the increase in fraud and scams specifically relating to crypto over the recent years. This should have triggered Revolut's fraud prevention systems as explained above.

Did Mr M contribute to his loss?

I think this was a sophisticated scam and Mr M couldn't have reasonably foreseen that he was dealing with a scammer. Mr M was able to see balances on his trading account with X, and I don't think he could have reasonably known that the trading balance was likely fake or a simulation – unless prompted by his trusted bank.

Mr M was also able to see positive reviews for X online and was even able to make a small withdrawal from the investment.

Overall, I don't think Mr M contributed to his losses, so I don't suggest the overall settlement be reduced.

Putting things right

I've explained why I think, if Revolut Ltd had done what it reasonably ought to have done, Mr M would not have lost as much to this scam as he did.

Revolut Ltd should therefore pay Mr M £8,055 (total of the last three payments he made less the withdrawal he was able to make).

To compensate Mr M for having been deprived of this money, Revolut Ltd should also pay Mr M interest on the loss at 8% simple per year, calculated from the date of loss to the date of settlement.

My final decision

I uphold this complaint and require Revolut Ltd to put things right by doing what I have outlined above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 10 May 2023.

Terry Woodham
Ombudsman