DRN-3863344

Financial Ombudsman Service

The complaint

Mr P complains that Revolut Ltd will not refund money he lost to an investment scam. For the purposes of this decision, all reference to Mr P includes his representative.

What happened

Mr P was interested in investing online and found information about an online trading platform, which I'll refer to as 'H'. He filled out an enquiry form to express an interest in trading and was then contacted by a representative of the company.

This account manager convinced Mr P to make a series of payments to invest with H. Mr P was told that he needed to first convert his money to digital assets and he should do so through Wisenex, an exchange platform that turns fiat money to cryptocurrency. From there, Mr P sent the funds on to H.

Mr P followed this process, using his Revolut account to make several debit card payments that took place between May and July 2022. At first, Mr P was happy with how his deposits were faring and could see that profits were being made from the trades. When he later opted to withdraw funds, he was asked by H to pay a tax fee — it was explained that this was required for compliance reasons. This seemed plausible to Mr P, so he made a final payment for this purpose. Meaning that, overall, Mr P paid just under £24,000.

Mr P didn't receive any withdrawal from H and realised that he'd been scammed by the firm. He reported this to Revolut and it didn't agree to give his money back. Revolut maintained that it should not be held liable to return the money when Mr P raised a corresponding complaint.

When Mr P brought the dispute to this service, one of our investigators held that it was not fair or reasonable to require Revolut to cover Mr P's loss. Mr P disagrees, countering that Revolut ought to have taken more steps to protect the account.

Because Mr P does not agree, the matter has been escalated 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.

It's accepted by Revolut that Mr P lost out to H as the firm was operating as a fraudulent enterprise. On account of the evidence and my own research, I see no compelling reason to depart from this common ground that's been reached by the parties. Accordingly, I've come to my decision on the basis that Mr P was the victim of a scam.

It isn't in dispute that Mr P authorised these payments using his Revolut debit card. The payments were requested by him using his legitimate security credentials provided by Revolut as an electronic money institution (EMI). The starting position is that Revolut ought to follow the instructions given by its consumers in order for legitimate payments to be made as instructed. Still, I've considered whether Revolut should have done more to prevent Mr P from falling victim to this scam.

While, as an EMI, Revolut doesn't necessarily have the same obligations as a bank, I nonetheless find that there are still some situations where it should reasonably have a closer look at the circumstances surrounding a particular transaction or set of payments because they indicate a consumer might be at risk of financial harm from fraud. For example, if account movements were markedly out of character or suspicious for a consumer. Indeed, in its submissions for this case, Revolut accepts that it should carry out further enquiries should the situation warrant them.

Having reviewed the transactions in question, I'm not convinced that the first payment of £3,237.19 (as shown on Mr P's statement) was unusual or concerning to the extent that I would expect Revolut to have carried out an intervention. Not least, because this payment out was not overly uncharacteristic when compared to what Mr P had just paid *in.*

Conversely, when Mr P instructed the second card payment of £1,798.51, I find that Revolut should have taken steps to enquire with him about the nature of what he was doing. The payment value —when coupled with the prior *c*.£3,000 transaction— represented a significant increase in expenditure in contrast to Mr P's recent spending habits. What's more, this transaction marked the second payment to Wisenex in quick succession on the same day, without an apparent explanation for why two sets of payments would need to be remitted to the same beneficiary twice in this short span of time.

Revolut is aware that successive payments to the same payee on the same day can often be indicative of fraudulent (or other potentially harmful) activity. Overall, I think Revolut had grounds to have stepped in with this particular payment and asked reasonably probing questions of Mr P. It was at this point that I would have expected it to have ascertained what these payments to Wisenex entailed, so it could establish whether further measures were required as a means to protect the account. The subsequent payments would therefore either be prevented, or allowed to proceed without further enquiry in light of Revolut taking reasonable measures.

But even if Revolut *had* intervened at this stage and asked questions about the purpose behind the payments Mr P was making, I'm not persuaded it would have likely stopped him from proceeding or have ultimately prevented his loss. If Revolut had provided Mr P with a warning about the risk of being scammed, I'm not persuaded that any further checks he would have realistically carried out would have revealed that he was being deceived by a fraudulent operation.

Mr P has said himself that there was very little negative information about H when he was conducting online research. Although the UK regulator, the Financial Conduct Authority (FCA) published a warning about H, this came some months after Mr P had already made these payments.

At the material time, the intel available about H does seem to have been broadly positive and not something that would have been disconcerting for Mr P. I therefore judge that there wouldn't have been anything compelling to alert Mr P to the fact that he was being defrauded — which would also apply to what Revolut could reasonably have relied on, as it looks like there was a lack of adverse information about H available both within the public domain and from the FCA.

We know that Mr P wanted to invest and proactively expressed an interest with H. It follows that the contact he received in response was not a surprise. If made apparent to Revolut, this would likely have been considered as less of a risk than a consumer who received a cold call, offering an unsolicited investment proposition.

The onboarding process Mr P went through with H has been described as reflecting that of a genuine business. Nothing he was being asked to do appeared alarming to Mr P when he first set up an account with the firm. It's fair to say then that any questioning by Revolut surrounding how the relationship had come about, or the apparent legitimacy of H's procedures, would probably have been answered by Mr P without concern.

I must also consider the working relationship Mr P believed he had with his designated account manager at H and the bearing this would likely have had on whether he would have still gone ahead with the payments. Mr P struck regular contact with this individual, typically speaking on the phone two or more times per week. By his own admission, Mr P built a degree of trust, which was predicated by the perceived depth of technical knowledge and experience this person had, along with the healthy profits Mr P believed he was making. In light of this, I've borne in mind that Mr P regarded H as trustworthy and was relying on the firm's advice when carrying out these payments — which is significant, especially when coupled with the lack of conclusive information available to Mr P to deter him from H.

Moreover, Mr P has said that he was under the impression that he had successfully withdrawn funds from his account with H. It seems H convinced him that he'd been able to take out £100 or so from his earnings. This looks to have been made possible by the sophisticated software H had in place which led Mr P to believe that he was 'seeing' his investments on what's later come to a light as a fabricated platform.

Mr P has always maintained that he was an inexperienced investor and, understandably, would be most concerned about being able to access his funds. By making Mr P trust that he was able to obtain this withdrawal and continue to track his investments would naturally provide assurances that everything was above board. This, together with the apparent intricacy of the superficial platform H was using, leads me to think that Mr P would not have been disconcerted about how his investment was faring even if questioned by Revolut.

This is reinforced by the fact that H was able to appease Mr P when he challenged why he was being asked to pay some sort of 'tax' when making a subsequent withdrawal request. I understand that Mr P was told to cover a fee of 20% or so, which represented a considerable amount. The fact that this situation was placated by what sounds like some clever social engineering by H supports my conclusion that Mr P was convinced that this wasn't an untoward scheme. The point being, I think it's more likely than not that Mr P would not have refrained from making these payments even if Revolut had asked reasonably probing questions of him, which is demonstrated by his confidence in H's operation.

I make my decision based on the balance of probabilities. In my view, all of this makes it probable that Mr P would not have become overly incredulous about his plan to invest had the bank made enquiries with him. While I appreciate Mr P may disagree, I do find it more likely than not that he would not have been swayed from his plans to pay H even if Revolut had provided insight into common fraud trends and the risk of falling victim to scams.

Taking everything into consideration, I don't think Revolut's failure to intervene can reasonably be considered as the proximate cause of Mr P's loss in these circumstances, as it seems likely he would have proceeded to make the transactions irrespective of an intervention by the EMI.

Finally, I've also thought about whether Revolut could have done more to recover the funds after Mr P reported the fraud, as in some circumstances money spent on a debit card can be recovered via raising a chargeback dispute. However, a chargeback is a voluntary scheme run by card providers such as Visa and Mastercard. The process is subject to the rules of the scheme and we wouldn't expect an EMI to pursue matters without prospects of success.

In this case, Mr P used his debit card to pay a legitimate crypto-exchange platform before the funds were subsequently transferred on to the fraudsters. Meaning that he wouldn't be able to make a successful chargeback claim because the service would be considered provided (i.e. the purchase of cryptocurrency or other digital assets). Consequently, I do not think Revolut has acted unreasonably by not pursuing a chargeback claim further here.

My final decision

For the reasons given above, my final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 29 March 2023.

Matthew Belcher
Ombudsman