

## Complaint

Mr B is unhappy that Revolut Ltd didn't do more to protect him when he was the victim of fraud. I should point out that the final two payments Mr B made in connection with this scam came after his Revolut account was migrated to Revolut Bank UAB in Lithuania. As I understand it, all parties agree that those final two payments fall outside of the jurisdiction of this service.

## Background

In late 2020, Mr B was researching potential investment opportunities online. He found what he believed to be a legitimate investment firm and made contact. He carried out some basic checks to satisfy himself that he was dealing with a genuine firm. He made a small initial investment and watched its performance closely. He was later persuaded to invest more and transferred over 175,000 euros using his account with Revolut. Unfortunately, it transpired that Mr B hadn't been in contact with a genuine firm but a scammer.

He made these transfers to an account in his name. His funds were later transferred into the hands of the scammers. He complained to Revolut. It said that it didn't think it could be held liable for any of Mr B's losses. It pointed out that, after it had processed the payment request from Mr B, his funds were in a different account that was also in his control. It was from that other account that his losses occurred and so Revolut can't be said to have been the cause of his losses.

Mr B wasn't happy with this response and so he referred a complaint to this service. It was looked at by an Investigator who didn't uphold it. The Investigator said that Revolut ought to have recognised that the activity on Mr B's account was unusual and out of character. It shouldn't have processed these payments without first taking some basic steps to satisfy itself that Mr B wasn't at risk of financial harm due to fraud.

However, she thought that, even if it had intervened and questioned them, it was extremely unlikely that they'd have uncovered that this was a scam. The communications with the scammer and the fake documentation that was provided to support it was too credible.

Mr B disagreed with the Investigator's view. He said that Revolut ought to have known that he was sending money to a scammer and warned him before he made the transfers. He cited several codes of practice that set out guidance on the minimising of the risk of fraud.

Because Mr B disagreed with the Investigator's opinion, the complaint has been passed to me to consider and to come to a final decision.

## Findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

I issued provisional findings on Mr B's complaint on 2 March 2023. I wrote:

*The starting point under the Payment Services Regulations 2017 and the terms of his*

account is that Mr B is liable for payments he's authorised. However, taking into account the law, regulators' rules and guidance, relevant codes of practice and what I consider to have been good industry practice at the time, I consider Revolut should fairly and reasonably:

- Have been monitoring accounts and any payments made or received to counter various risks, including anti-money laundering, countering the financing of terrorism, and preventing fraud and scams.
- Have had systems in place to look out for unusual transactions or other signs that might indicate that its customers were at risk of fraud (among other things). This is particularly so given the increase in sophisticated fraud and scams in recent years, which payment service providers are generally more familiar with than the average customer.
- In some circumstances, irrespective of the payment channel used, have taken additional steps, or made additional checks, before processing a payment, or in some cases declined to make a payment altogether, to help protect customers from the possibility of financial harm from fraud.

With the benefit of hindsight, we now know that Mr B had been targeted by a manipulative and cynical scam. The question I must consider here is this: should Revolut have recognised that risk and taken preventative action, given the information that it had available at the time? I agree with the Investigator's conclusion that it ought to have identified that there was a scam risk associated with these payments. By the point Mr B made a payment of 42,000 euros on 30 September 2020, a significant deviation from the normal pattern of account activity was evident.

I don't think it should've processed this payment without first contacting Mr B to satisfy itself that he wasn't at risk of fraud. That isn't the same as saying that it should've foreseen that Mr B had been targeted by fraudsters. From what I've seen, there's no reason to believe that Revolut could've known that Mr B's funds were ultimately ending up in the hands of fraudsters, particularly given that the destination of these payments was an account under his control. There were several risk factors present in terms of the activity on his account and so, from its perspective, it should've judged that the risk of fraud was elevated and that this justified a proportionate intervention on its part.

The communications that Mr B had with the scammers were plausibly those of a legitimate investment company. The investment was supported by formal documentation and customer verification processes that had an air of credibility. However, the scammers told Mr B that they were regulated by the Financial Conduct Authority and shared a certificate with him to demonstrate that. However, by the time Mr B made his investment there was a warning on the FCA website saying that the company he'd been contacted by were offering investment products in the UK without authorisation. If this had been drawn to Mr B's attention, I think it's highly unlikely that he'd have gone ahead with the payments.

I've also considered whether Mr B can be considered partially responsible for his losses here. The documentation he was provided by the scammer showed that any profits made on his investment would be split between him and the investment company according to a pre-determined formula. The documentation was clear that the performance of his investment was dependent on market conditions. For that reason, I'm satisfied he wasn't persuaded to invest by the promise of an unrealistic return.

Furthermore, Mr B had some experience of investments and so was able to track the

*performance on the underlying assets himself and these were consistent with the data he was being given by the scammers. Overall, I'm satisfied Mr B was the blameless and unwitting victim of a sophisticated investment scam. I don't think he can fairly be said to be partially responsible for his own losses.*

Mr B accepted my provisional findings. Revolut disagreed. It noted that I'd referred to Mr B's investment experience and the fact that he was able to track the performance of what he believed were his investments by comparing the data given to him by the scammers with authentic financial indicators. Given that Mr B was a relatively experienced investor, it argued that he should've known to consult the FCA website. If he had done so, he'd have found the warning.

It argues that, either Mr B was careless and so should be considered partially responsible for his losses or the scam was so well executed that a Revolut employee couldn't reasonably be expected to have identified it. However, I still think there was an asymmetry of knowledge between the parties here. Although Mr B clearly had more experience in investments than the average customer, I'd expect Revolut to have greater familiarity with investment scams. It sees such scams with far greater frequency than the average customer and should've been aware of the guidance shared with industry by the FCA.

I'm also mindful of the fact that Mr B isn't a UK national. He believed he was making an investment with a financial institution operating out of the UK. However, it doesn't necessarily follow that he would know much about how financial services are regulated in the UK or the role the regulator plays in protecting customers from potential fraud.

Overall, I'm not persuaded to depart from the reasoning I set out in my provisional findings.

### **Final decision**

For the reasons I've set out above, I uphold this complaint. If Mr B accepts my decision, Revolut Ltd should refund the following payments:

- €42,000 on 30 September 2020
- €40,250 on 15 October 2020
- €40,250 on 20 October 2020

I also considered whether interest should be added to this award. Typically, in a case like this one, I'd look to put Mr B in the position he would likely be in if he'd found an investment product suitable to his needs, rather than falling victim to a scam.

However, in this instance I've not made any award for interest. It is not possible to say precisely what Mr B would have done with the money he lost. However, from the evidence I've seen, he was clearly willing to take a significant risk with his capital. I don't think it's possible to say what would've happened to any investments he may have made had not fallen victim to this fraud.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 28 April 2023.

James Kimmitt  
**Ombudsman**