

The complaint

Mr M complains that Revolut Ltd didn't do enough to protect him from the financial harm caused by an investment scam, or to help him recover the money once he'd reported the scam to it.

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.

In April 2022, Mr M saw a pop-up advert for an investment company I'll refer to as "T". T was endorsed by a well-known celebrity and the advert suggested Mr M could make money by investing in cryptocurrency.

Mr M did some online research and didn't find anything suggesting T was a scam. He completed an online enquiry form and was contacted by someone who told Mr M that T specialised in cryptocurrency investments and that he would be allocated an account manager who would help him to manage his account. He was told the account manager would take a commission on his profits and that returns would vary.

Mr M was contacted by the account manager, who I'll refer to as "the scammer". The scammer was polite and professional and helped Mr M to open a trading account, which required him to send a copy of his ID. He was instructed to download AnyDesk remote access software to his device which he believed was necessary for the scammer to guide him through the investment. He was also told to open an account with a cryptocurrency exchange company I'll refer to as "C" and to open an account with Revolut.

The scammer asked Mr M to first purchase cryptocurrency through C and then load it onto an online wallet. He made an initial investment of £200 and was encouraged by the scammer to make a withdrawal from the trading account. Between 26 April 2022 and 14 May 2022, he made five payments to C totalling £44,973.69 using a debit card connected to his Revolut account.

But when Mr M refused to invest a further £25,000, the scammer told him he'd already made the investment, so he would be in £25,000 debt to T if he didn't pay it. Mr M asked to make a withdrawal but he was told he would first have to repay the £25,000, which he did. He eventually realised he'd been scammed when he was unable to contact the scammer. He contacted Revolut and asked it to raise a chargeback request, but it rejected the claim because the payments were authenticated via 3DS.

Mr M wasn't satisfied and so he complained to this service. He said that if Revolut had blocked the payments and provided scam advice, he wouldn't have gone ahead. He said it should have intervened as the transactions were high-value payments to a new payee linked to cryptocurrency. He said he wanted Revolut to refund the money he'd lost, pay him £500 compensation and indemnify him for any legal costs.

His representative said Revolut should have intervened as Mr M made five payments to a new payee linked to cryptocurrency. They said he was making payments in quick succession, the account was newly opened and there was a rapid depletion of funds, so the payments were unusual.

They explained that on 25 April 2022, Mr M received £3,000 and £10,000 into the account and within 24 hours he forwarded this sum to the scam. And on 3 May 2022 he received £15,000 from another account before transferring it to the scam. They argued that this activity is a known-fraud indicator and that if Revolut had contacted Mr M to challenge the authenticity of the payments it would have realised he was falling victim to a scam and the fraud would have been prevented.

They said it should have asked Mr M why he was making the payments, who he was trading with, how he found out about the company, whether he'd checked the Financial Conduct Authority ("FCA") website, whether he'd made any withdrawals and whether he'd been pressured to make the payment. And as Mr M hadn't been prompted to give false answers, he would have fully explained what he was doing and it would have been clear that T had the hallmarks of a scam. Revolut could then have told him he was likely falling victim to a scam and he wouldn't have gone ahead with the payments.

Revolut has further argued that there were no direct transactions from Revolut to T, therefore no loss occurred from that account. It was unable to raise a chargeback claim because there were no traces of fraudulent activity on the account and once the funds were deposited to the beneficiary account, the service was considered provided.

It said there was no reason to suspect fraud as Mr M was moving funds from his Revolut account to an account in his own name and control. It didn't accept it should be held fully liable and that Mr M's other bank would have had a better overall view of his spending behaviour. It explained many customers use Revolut for cryptocurrency transactions with usually higher amounts and the disputed transactions were made within almost three weeks so the movement of funds wasn't quick.

Our investigator felt the £9,975.22 Mr M paid to the scam on 1 May 2022 ought to have been flagged as suspicious. But, based on the calls that took place between Mr M and his other bank ("Bank C") he didn't think an intervention would have made a difference. He noted that Bank C intervened and questioned Mr M about the scam on 14 May 2022, but his answers were vague and he still went ahead with the payments. He also considered that Mr M had a history of investing, he'd done some due diligence and there were no FCA or IOSCO warnings, so he thought he would have gone ahead with the payment even if Revolut had intervened.

Mr M has asked for his complaint to be reviewed by an Ombudsman. His representative has commented that on 14 May 2022 Mr M had already invested substantial funds and was thoroughly invested in the scam. They have argued that if Revolut had contacted him on 1 May 2022, he hadn't invested as much and would have been more willing to reconsider his engagement with the opportunity and carry out some independent research

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.

Having done so, I've reached the same conclusion as our investigator. And for largely the same reasons. I'm sorry to hear that Mr M has been the victim of a cruel scam. I know he

feels strongly about this complaint and this will come as a disappointment to him, so I'll explain why.

I've thought about whether Revolut could have done more to recover Mr M's payments when he reported the scam to it. Chargeback is a voluntary scheme run by Visa/Mastercard whereby it will ultimately arbitrate on a dispute between the merchant and customer if it cannot be resolved between them after two 'presentments'. Such arbitration is subject to the rules of the scheme — so there are limited grounds on which a chargeback can succeed. Our role in such cases is not to second-guess Visa/Mastercard's arbitration decision or scheme rules, but to determine whether the regulated card issuer (i.e. Revolut) acted fairly and reasonably when presenting (or choosing not to present) a chargeback on behalf of its cardholder (Mr M).

Mr M's own testimony supports that he used a cryptocurrency exchange to facilitate the transfers. It's only possible to make a chargeback claim to the merchant that received the disputed payments. It's most likely that the cryptocurrency exchange would have been able to evidence they'd done what was asked of them. That is, in exchange for Mr M's payments, they converted and sent an amount of cryptocurrency to the wallet address provided. So, any chargeback was destined fail, therefore I'm satisfied that Revolut's decision not to raise a chargeback request against cryptocurrency exchange was fair.

I'm also satisfied Mr M 'authorised' the payments for the purposes of the of the Payment Services Regulations 2017 ('the Regulations'), in force at the time. So, although he didn't intend the money to go to scammers, under the Regulations, and under the terms and conditions of his bank account, Ms M is presumed liable for the loss in the first instance.

There's no dispute that this was a scam, but although Mr M didn't intend his 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.

Prevention

Revolut is an emoney/money remittance provider and at the time these events took place it wasn't subject to all of the same rules, regulations and best practice that applied to banks and building societies. But it was subject to the FCA's Principles for Businesses and BCBS 2 and owed a duty of care to protect its customers against the risk of fraud and scams so far as reasonably possible.

I've thought about whether Revolut could have done more to prevent the scam from occurring altogether. Buying cryptocurrency is a legitimate activity and from the evidence I've seen, the payments were made to a genuine cryptocurrency exchange company. However, Revolut ought to fairly and reasonably be alert to fraud and scams and these payments were part of a wider scam, so I need to consider whether it ought to have intervened to warn Mr M when he tried to make the payments. If there are unusual or suspicious payments on an account, I'd expect Revolut to intervene with a view to protecting Mr M from financial harm due to fraud.

The payments didn't flag as suspicious on Revolut's systems. This account was newly opened and so there was no transaction history to compare the payments with. I've considered that all payments were to a legitimate cryptocurrency exchange company and the first payment wasn't for a particularly large amount, but I agree with our investigator that, owing to the size of the payment, Revolut should have intervened in 1 May 2022 when Mr M paid £9,975.22 to the scam.

However, I don't think an intervention would have made a difference to the outcome. This is because Mr M was contacted by Bank C on 14 May 2022 and asked questions about payments that he was making from that account. During that call he was asked about the purpose of the payment, whether he'd been told to lie, whether he'd given anyone access to his device, how he'd heard about the company, whether anyone else was investing on his behalf and what due diligence he'd done. I'm satisfied the questions were relevant and sufficiently probing and that the limited information Mr M gave meant the call handler was unable to detect that he was being scammed. His responses meant that initially it wasn't clear that he was investing in cryptocurrency and he didn't mention that he was being advised by a someone who worked for an investment company he'd seen advertised online or that he'd allowed the scammer to access his device using remote access software.

Even with limited information about the circumstances, Mr M was warned about being told to lie and that scammers can pose as account managers and make investments on their behalf or tell them to move money to fraudulent investments. I'm satisfied that these warnings were relevant and effective, yet Mr M still chose to go ahead with payments from Bank C.

Based on what happened during the call on 14 May 2022 I don't think a call on 1 May 2022 would have uncovered the scam. Mr M's representative has argued that he would have been more open to advice on 1 May 2022 because by that time he hadn't invested as much into the scam, but there were no warnings about T on either the Financial Conduct Authority ("FCA") or International Organisation of Securities Commissions ("IOCSO") websites which would have alerted him to the fact there was a scam. He had a history of investing and had done what he considered was reasonable due diligence, satisfying himself that the opportunity was genuine. He thought T was a genuine company and that the scammer was professional and knowledgeable, so I don't think there was anything Revolut could have said to change his mind, and I don't think this was a case it should have invoked Banking Protocol.

Because of this, I don't think that Revolut missed an opportunity to intervene in circumstances when to do so might have prevented Mr M loss. I'm sorry to hear he has lost money and the effect this has had on him. 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.

Recovery

I don't think there was a realistic prospect of a successful recovery because Mr M paid an account in his own name and moved the funds onwards from there.

Compensation

Mr M isn't entitled to any compensation or legal costs.

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 14 March 2024.

Carolyn Bonnell
Ombudsman

