

## **The complaint**

Miss D complains that Wise Payments Limited (“Wise”) won’t refund funds she lost to an investment scam.

Miss D is being represented by a claims management company in her complaint.

## **What happened**

In 2021, Miss D became interested in an investment opportunity promoted by a property developer “L”. She reached out to L who persuaded her to invest money in a development project overseas. Under L’s recommendation, Miss D opened an e-money account with Wise to facilitate the investment transfers. Funds were deposited into the Wise account from her current account with a high street bank in the UK.

Over the course of the next few days, multiple card payments were made to cryptocurrency platforms from Miss D’s Wise account. An international transfer was also made from the account. Miss D’s representative states that these transactions weren’t authorised by her. And that she didn’t discover them until later when Wise got in touch and notified her that it was closing her account.

Miss D reported the scam to Wise and her bank. Unhappy with their response, the matter was referred to our service. Miss D’s complaint about her bank is being considered by our service under a separate case reference.

Our investigator wasn’t satisfied that Miss D’s losses from her Wise account were because of any failure on Wise’s part. So, they didn’t think it could have done more. Miss D’s representative disagrees with the investigator’s assessment and has asked for an ombudsman’s decision.

## **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’d like to start by reassuring the parties that although I’ve only summarised the background to this complaint, so not everything that happened is set out above, I have read and considered everything in its entirety.

Miss D says her dealings were with a representative from L. I’ve done my own research into L, but very little information is available about it in the public domain. I can see it has been registered in an EU member state since July 2021, although it appears to have recently gone into liquidation. This in and of itself isn’t evidence that L was set up with the specific purpose of scamming customers. But Miss D claims that she was scammed, and Wise hasn’t disputed this. So, I’ve proceeded on that basis.

I note Miss D’s version of events has remained unclear and there are gaps in what we’ve been told. She’s also given conflicting information about what has happened. For instance,

when she reported the scam to Wise and her bank, she said she hadn't made the payments from her bank to her Wise account. But later, she said that she had. And while her representative submits that Miss D didn't authorise any of the disputed transactions from her Wise account, she told our investigator (investigating her complaint about her bank) that she did make the international transfer from her Wise account.

These differing recollections naturally cast a doubt on the credibility of Miss D's testimony. In this situation, my role is to weigh up the evidence we do have and to decide – on the balance of probabilities – what's most likely to have happened. For these reasons, I've relied and placed more weight on the documentary evidence available to reach a view on what happened.

The first thing I need to decide is whether, on balance, I think Miss D authorised the payments. Broadly speaking, Miss D is responsible for any payments that she has authorised, and she isn't responsible for unauthorised payments. Having considered all the evidence and information available, I think, on balance, it's most likely that Miss D did authorise all the payments. I say this for the following reasons:

- Miss D acknowledges making the international transfer.
- In relation to the card payments, Wise has provided technical evidence which shows that Miss D's card details were entered on the merchant's website and the payment transaction was approved using a one-time passcode (OTP) which was sent to her registered mobile number.
- When questioned, Miss D told our investigator she shared the OTP with the scammer whenever they rang her and asked for it.

That means Miss D is considered liable for the loss – even if she was duped into making the payments – unless there's evidence that Wise could and should reasonably have done more to protect her against the risk of fraud and scams *and* that this would have made a difference to her decision-making.

In this case, Miss D didn't have an account with Wise before the disputed payments were made. She set it up as instructed and so there was no transaction history to compare the payments with. Wise is an electronic money institution (EMI), not a bank or a building society. EMIs are set up with the purpose of sending and receiving money. And often that will be for larger sums.

The disputed transactions comprise five card payments and an international transfer. Four card payments were made on the same day, with the fifth card payment and the international transfer being made the following day. I'm not persuaded that the first three payments were of a nature such that I think Wise ought to have intervened. And I'm not aware there was any interaction between Wise and Miss D at the time, where any concerns might have been expressed, that would lead me to conclude it ought to have paused the payments and asked her about it.

The fourth payment was considerably larger than the previous ones. Given the amount, as well as the fact that it was the fourth such payment that day (and the third payment to the same merchant), I consider that Wise ought to have provided a tailored scam warning to Miss D before executing her payment instruction. As far as I can tell, no such warning was given. So, an opportunity was missed. But this is not the end of the matter.

Causation is a critical determinative factor, and I need to be satisfied that a scam warning would have led to a different outcome. Having considered the available information, I'm not convinced it would have. I say this because on that same day, Miss D's bank blocked a payment which she had attempted to send to her Wise account. She was asked if anyone

had been involved in setting up her Wise account and whether she'd been asked to download anything, and she said no. I'm not persuaded Miss D would have answered similar questions from Wise, such as third-party involvement or remote access, in the way her representative has suggested.

It's also worth mentioning that just days later Wise blocked some incoming payments from Miss D's bank account and emailed her asking why she was making the transfers to her Wise account. It sent the email to the same email address that Miss D had used to set up her account. She's previously said she set up the account herself, including providing additional information to Wise when it was requested during the account opening process.

So, I'm persuaded that the reply Wise received to its enquiries about the incoming payments came from Miss D. I've seen a copy of the email it sent her, as well as her response to it. Miss D wasn't forthcoming about her intentions for the funds; she said she was going to use the money to pay her bills and make some online payments.

Considering the above, I'm not persuaded that an intervention by Wise at the time of the fourth payment would have prevented further loss. The same goes for the subsequent payments which were made the following day. That being the case, I can't fairly hold Wise liable for Miss D's losses.

I've also thought about whether Wise could have done more to recover the funds after it became aware of the situation, as in some circumstances the money can be recovered.

In relation to the card payments, Miss D's payments went to a cryptocurrency platform. She wouldn't be able to make a successful chargeback claim in the circumstances because the merchant she paid did provide the service requested (i.e., conversion of fiat money into cryptocurrency). So, I don't think Wise was under any obligation to raise a chargeback dispute for Miss D.

In relation to the international transfer, I can see Wise sent a recall request to the beneficiary bank. It has told us it also chased this a few times. But it never heard back. Under the circumstances, I don't think Wise could have done anything more.

In summary, I recognise that this will come as a considerable disappointment to Miss D. Not least because the matter has been ongoing for some time. I fully acknowledge that there's a lot of money involved here. But having considered the matter very carefully, for the reasons given, it wouldn't be fair of me to hold Wise responsible for her loss.

### **My final decision**

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss D to accept or reject my decision before 14 September 2023.

Gagandeep Singh  
**Ombudsman**