

## **The complaint**

Mr S complains that Revolut Ltd didn't do enough to protect him from the financial harm caused by an investment scam company, 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 May 2021 Mr S came across an advertisement for an opportunity to invest in cryptocurrency with a company I'll refer to as "L". The opportunity was endorsed by two well-known celebrities, and he had seen similar adverts before, so he believed it was genuine.

He clicked on the advertisement and was required to input his contact details. He then googled L and couldn't see any bad reviews, noting website featured "about us," "legal," "financial," "support," and, "contact us" sections, and had photographs of stock trades showcasing currency values. He sent a copy of his photo ID and a utility bill as proof of address and received an email confirming his registration had been successful.

He then received a phone call from someone claiming to be a broker working for L, who said he'd be his account manager. The broker explained how the trading would work and instructed Mr S to first purchase cryptocurrency through a cryptocurrency exchange company and then load the cryptocurrency onto an online wallet. He was told he'd need to pay a start-up fee and so he made the initial payment from another of his bank accounts.

The broker told him he'd been trading for several years, and Mr S thought the broker seemed knowledgeable and professional. He also emailed Mr S several case studies of success stories.

Between 3 August 2021 and 12 August 2021, Mr S made three payments totalling £10,599.82 to a cryptocurrency exchange company account in his own name using a debit card attached to his Revolut account. When he saw profits on his trading account, he contacted broker to ask if he could make a withdrawal. The broker said they would need his IBAN number, and it would have to go through Bitcoin, which would take over a month. He also said he'd have to open another e-wallet to avoid transferring a large amount into his bank account. He was then told to pay 'reflection fees' and that if he didn't pay within 24-48 hours, he would get further charges and might not be able to access to his funds.

At this point Mr S realised he'd been scammed and contacted Revolut. He complained that it failed to intervene or question any of the payments and that it might have prevented his loss if it had asked probing questions to understand the true context of the payments.

But Revolut refused to refund any of the money he'd lost. It reminded Mr S of the need to do thorough due diligence on any companies and entities he was planning to send money to, including checking online forums. It also said it provides information to its customers on how

to avoid scams including checking the investment company is on the Financial Conduct Authority ("FCA") register.

It said Mr S's claim was investigated as a fraud chargeback and it was concluded the payments were authorized via 3DS authorisation, so a chargeback wouldn't have been successful as there was no fraudulent activity.

Mr S complained to this service with the assistance of a representative. They said Revolut should have intervened as Mr S made three payments to a new payee linked to cryptocurrency that totalled £10,599.82 within the space of 9 days. The representative explained that Mr S opened the account for the purpose of the scam, and it ought to have identified that he'd deposited a large amount of funds into his account and then sent it straight out again, which should have been a red flag. They argued Revolut's systems should have been triggered on 3 August 2021 when Mr S added a new payee and sent a payment for £529.55.

The representative said that Revolut ought to have contacted Mr S asked why he was making the payments, how he found out about the company, whether he'd researched the company, whether he'd checked the FCA register, whether he'd been promised unrealistic returns and whether he'd tried to make any withdrawals, and with this information it could have identified he was the victim of a scam and prevented his loss.

Revolut commented that the payments were made to a cryptocurrency exchange platform, meaning that no fraud occurred from the Revolut account. And it said the account was newly created, so there were no historical transactions, and the payments were to a legitimate cryptocurrency merchant.

Our investigator didn't think the complaint should be upheld. She explained Revolut could only have processed chargeback claims against the cryptocurrency exchange company Mr S paid and she didn't think he had any reasonable prospect of success because it had provided the service it was required to provide.

However, she thought Revolut should have intervened when he made the payment of £5,299.55 on 3 August 2021 because it was unusual for the account. She said the account was newly opened and the payment was of high value and not in line with the account opening reason given. So, she thought Revolut ought to have provided a warning which covered the risks of cryptocurrency scams.

But she didn't think an intervention from Revolut would have made a difference to the outcome and that Mr S would have gone ahead with the payment even if he was warned about the potential for a scam. She thought this because he had a discussion with Bank R in May 2021 when he told it about his cryptocurrency investment dealings. On that occasion, Bank R provided a detailed warning about cryptocurrency scams and told him he was being scammed and it wouldn't allow any further payments to the beneficiary. Mr S then transferred the money to an account he held with "W", and from there he made payments to the same beneficiary details which Bank R warned him were most likely a scam. Ultimately those funds were then lost to the scam.

Our investigator explained there were further interactions with the other Bank R in July 2021, when Mr S denied he was making the payments for an investment, so she didn't think he'd have listened to a scam warning from Revolut. She also considered whether Revolut should have intervene when he made the later payments but, considering he'd already made a payment of £5,299.55, she didn't think it needed to intervene. Finally, she explained that Mr S wasn't entitled to compensation from Revolut because it wasn't responsible for his loss.

Mr S has asked for his complaint to be reviewed by an Ombudsman arguing he wouldn't have gone ahead with the payments if Revolut had told him he was being scammed. And he thinks Revolut ought to refund 50% of his loss because it missed an opportunity to intervene.

### **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 S 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'm satisfied Mr S '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, Mr S is presumed liable for the loss in the first instance.

Not every complaint referred to us and categorised as an investment scam is in fact a scam. Some cases simply involve high-risk unregulated investments that resulted in disappointing returns or losses. Some of these investments may have been promoted using sales methods that were arguably unethical and/or misleading. However, while customers who lost out may understandably regard such acts or omissions as fraudulent, they do not necessarily meet the high legal threshold or burden of proof for fraud, i.e. dishonestly making a false representation and/or failing to disclose information with the intention of making a gain for himself or of causing loss to another or exposing another to the risk of loss (Fraud Act 2006).

I've carefully considered the circumstances, and I am persuaded the broker was operating as part of a scam. But, although Mr S 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***

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 had an obligation to 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 S 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 S from financial harm due to fraud.

The payments didn't flag as suspicious on Revolut's systems. I've considered the nature of the payments in the context of whether they were unusual or uncharacteristic of how Mr S normally ran his account and I agree with our investigator that the payment he made on 5 August 2021 should have triggered an intervention because it was a large payment to a cryptocurrency exchange company, which was out of character for the account.

Based on what Mr S said during interactions in branch with Bank R in July 2021, I have doubts as to whether he'd have been completely open in his responses, but as this was a payment to a cryptocurrency exchange company, I would expect Revolut to have asked

some robust questions about the purpose of the payment and to have given a clear and effective scam warning.

However, I don't think this would have made a difference to Mr S's decision to go ahead with the payment. This is because I've listened to the call he had with Bank R on 11 May 2021, when the call handler said she thought the investment was a scam and she refused to process the payment. She told him the investment had the hallmarks of a scam and that he wouldn't be able to make any further payments from the account. She also told him about the tactics used by scammers and advised him to do more checks to avoid losing his money.

But Mr S ignored the advice and paid the funds into the account he held with W and then transferred it to the same beneficiary account Bank R had warned him about, which was a cryptocurrency exchange company, where it was lost to a scam.

Based on what actually happened when a similar intervention took place and the fact Mr S clearly trusted the broker and believed the investment was genuine, I'm satisfied that, even if Revolut had given Mr S a scam warning on 15 August 2021, it wouldn't have made any difference to his decision to go ahead with that or subsequent payments. So even though it missed an opportunity to intervene, this wasn't in circumstances which could have prevented his loss.

### *Chargeback*

I've thought about whether Revolut could have done more to recover Mr S's payments when he reported the scam to it. Chargeback is a voluntary scheme run by Visa 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'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 S).

Mr S's own testimony supports that he used cryptocurrency exchanges 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 exchanges would have been able to evidence they'd done what was asked of them. That is, in exchange for Mr S'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 either of the cryptocurrency exchange companies was fair.

I'm sorry to hear Mr S 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.

### **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 S to accept or reject my decision before 10 November 2023.

Carolyn Bonnell  
**Ombudsman**