

## **The complaint**

Mr L complains that Wise Payments Limited won't refund money he lost as part of a scam.

## **What happened**

In early 2020, Mr L fell victim to an investment scam. He sent money from his account at another firm (that I'll call N) to several genuine cryptocurrency providers and Wise, before moving those funds to a fraudulent trading platform.

Mr L believed that he was trading successfully and was encouraged to deposit more and more money. In January 2021, Mr L was told that the value of his investment had dramatically decreased and he'd need to put in more money.

From his Wise account, Mr L made two international payments, three months apart, both in excess of £30,000 and totalling £66,550. I understand Mr L opened his Wise account for the purpose of making these payments, though there was over a week between the account being opened and the first payment being sent.

After Mr L refused to invest more money, his trading account balance dropped to zero and the trading platform disappeared.

He complained to both Wise and N in late 2022. Both firms said they weren't responsible for his loss. Mr L referred both complaints to our service. N offered to repay 50% of part of Mr L's loss, but it said that he should pursue the payments that went to Wise with it. Mr L accepted N's offer.

One of our Investigators considered, but didn't uphold, Mr L's complaint about Wise. They thought that, taking into account the kind of service Wise offered, it shouldn't have considered the payments Mr L made to be particularly suspicious. They noted that N had provided warnings to Mr L, but they hadn't changed his decision to go ahead with the investment. They thought that, had Wise done the same, the result would have been no different.

Mr L's representatives disagreed. In summary they said:

- The values of the payments were very high and should have prompted an intervention by Wise.
- Electronic Money Institutions ("EMIs") like Wise are not exempt from providing fraud protections.
- It is an established and well-known pattern of fraud for funds to be credited to a new account and instantly moved on.
- Newer accounts pose a heightened risk of fraud, particularly new electronic money accounts.
- A high street bank would never allow similar activity on a new account.

- N's warning was not sufficient, as evidenced by the fact it admitted liability for some of the loss.
- Other decisions issued by our service have said that Wise ought to have questioned far smaller sums.

As no agreement could be reached, the case was passed to me for a final 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.

The starting point under the relevant regulations is that Mr L is responsible for payments he's authorised himself. But taking into account regulators' rules and guidance, relevant codes of practice and what I consider to have been good industry practice at the time these payments were made, I think Wise ought, fairly and reasonably, to have been on the lookout for out of character and unusual transactions and other indications that its customer might be at risk of financial harm from fraud.

It's undisputed that, as Mr L's account was new, the transactions were not out of character for him. Mr L's representatives appear to argue that the transactions were out of character in general and ought to have been concerning because they match a known fraud pattern.

While I'm sorry to hear that Mr L has lost out, I'm not persuaded by this argument. Wise is an EMI that specialises in international payments. I understand that, for many of its customers, it will be used occasionally to make such a payment. And, I'd reasonably expect that many customers looking to make international payments would, within a relatively short space of time, open an account, deposit money and send it to an international recipient. So, the pattern of activity is, in my view, likely to be consistent with the way many customers legitimately use their accounts.

I don't think a fair comparison can be made with high street banks, other EMIs or even Wise in circumstances where payments are being made domestically. In this case, there would be no reason for Wise to think that the payment journey had been artificially or unnecessarily extended by the fraudsters.

So, I don't agree that the pattern of transactions ought to have given Wise concern, but the amounts of the payments were significant. I think Wise should have provided a warning proportionate to the risk the payments presented. In this case, given that it was only the amounts that were of concern, I think a tailored written warning would have been proportionate. Wise didn't provide such a warning, but N did before payments in June and August 2020.

That warning provided a link to the Financial Conduct Authority ("FCA") warning list – which, at that point, would have had a warning about the firm that Mr L was investing in. It also provided a link to the FCA register and advised Mr L to check that the firm he was dealing with was FCA authorised. It wasn't. Mr L made payments from his account at N after seeing such warnings. And, while I don't suggest that the warning provided by N was perfect, it did outline some key risks and the steps that Mr L needed to take to avoid them. I'd expect a written warning provided by Wise to be similar in nature. As Mr L moved past N's warning, I can't reasonably conclude that a similar warning would have dissuaded him from going ahead with the payments from his Wise account. I must also take into account that it would be more difficult for any such warning to have had a positive impact on Mr L's decision

making in these circumstances as, I understand, he was receiving guidance from the fraudsters about how to make the payments and had given them access to his computer.

So, while I've found that Wise should have done more here, I don't find that it has caused Mr L's loss.

Finally, it appears that Wise did attempt to recover Mr L's money, but did not get a response from the bank which received it. Given that he did not report the fraud for several years and the payments were sent internationally (which, in my experience, significantly reduces the chance of successful recovery) I don't find this surprising.

Overall, I'm sympathetic to Mr L, but I don't find that Wise are responsible for his loss.

### **My final decision**

For the reasons I've explained, I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 20 October 2023.

Rich Drury  
**Ombudsman**