

The complaint

Mr R 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.

Mr R was the victim of an investment scam. In June 2022, he was contacted via a Telegram group by someone I'll refer to as "the scammer" who told him he could make money by investing in cryptocurrency. The scammer told Mr R he was an expert and advised him to use an investment platform I'll refer to as "T", explaining he'd get a commission from helping him to use the platform.

Mr R did some basic research and was satisfied T seemed legitimate. On 1 July 2022, he opened a Revolut account on the instruction on the scammer and was advised to first purchase cryptocurrency through a cryptocurrency exchange company I'll refer to as "B" and then load it onto an online wallet.

The scammer instructed Mr R to say he was paying friends/business if Revolut asked what the payments were for. He made some payments from another of his accounts and between 11 November 2022 and 24 November 2022, he made twelve payments to B totalling £15,844 using a debit card connected to his Revolut account. He was initially able to make withdrawals from the platform which reassured him the investment was genuine. But he realised he'd been scammed when he tried to make a larger withdrawal and he was told he'd need to invest more money.

When Mr R realised he'd been scammed, he raised dispute chargeback requests for the payments. But Revolut cancelled the requests explaining that once money orders are processed the service is considered provided, so it was unable to dispute the transactions. It also said the payments were sent over a period of two weeks, so they weren't sent in the heat of the moment, and they weren't out of character for the account. It said the payments were to an account in Mr R's name and control and there were no indications that he was making transactions under duress.

Dissatisfied with the response, Mr R brought his complaint to this service. Revolut further commented that the transactions were 3DS authenticated and B was a well-known cryptocurrency provider. And the fraudulent activity didn't take place on the Revolut platform as it was used as an intermediary to receive funds from Mr R's main bank account and then moved on to B after which he lost control of the funds.

It explained Mr R wasn't presented with any warnings because the transactions were card payments which were being sent to an account held in his name. And he didn't do enough due diligence or question the fact he'd been promised unrealistic returns.

Our investigator didn't think the complaint should be upheld. He explained that even though the payments were to a genuine cryptocurrency exchange, Revolut should have intervened on 19 November 2022 given the value and frequency of the payments.

He said it should have contacted Mr R via its live chat facility and questioned him about the payment. But he didn't think this would have made a difference because he'd been coached by the scammer to say the payments were for 'friends/business'. Additionally, he'd been able to make a withdrawal from the platform, which had reinforced his belief that the scam was real, and he was satisfied the website looked legitimate.

He also noted that Mr R had submitted a screenshot of a message he'd received from B when he attempted to transfer cryptocurrency to the scammer's wallet, which stated: *'The withdrawal address you have provided puts you at a high risk of a scam as it has been reported by many users for suspected scam activity. Recovery of funds is impossible if you fall victim to a scam. To ensure the safety of your assets, please verify the identity of the receiving party. We strongly advise against withdrawing to this address or any other address provided by this party. If you have any questions about this withdrawal, please reach out to our customer service team immediately'*. He commented that there was no evidence that Mr R had challenged the scammer about the warning, and this supported his conclusion that an intervention from Revolut wouldn't have made a difference to the outcome.

Mr R has asked for his complaint to be reviewed by an Ombudsman. He maintains that he shouldn't be solely responsible for his loss and that Revolut should have known the pattern of spending was indicative of fraud. He's explained he received the warning from B after the withdrawals were made to other wallets and that he didn't make any further withdrawals to the wallet after this point.

He's also explained he was an inexperienced investor and maintains that if Revolut had intervened he would have exercised greater caution.

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've thought about whether Revolut could have done more to recover Mr R'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 R).

Ms R's own testimony supports that he used cryptocurrency exchanges to facilitate the transfers to B. 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 R'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 satisfied Mr R '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, he is presumed liable for the loss in the first instance.

I'm satisfied this was a scam, but although Mr R 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 was 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 R 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 R from financial harm due to fraud.

The payments didn't flag as suspicious on Revolut's systems and so I've considered the nature of the payments in the context of whether they were unusual or uncharacteristic of how Mr R had been running the account since it was opened in June 2022. I wouldn't expect the first five payments to have triggered a warning because they were low value, and I note the amounts started to increase from payment six, but Mr R was paying a legitimate cryptocurrency exchange and the cumulative total was only £2988, so I don't think Revolut needed to intervene at that point.

However, when he paid £2,500 to B on 19 November 2022, this was the fourth in a series of larger payments that Mr R had made over two days and I think this was a pattern of spending which ought reasonably to have raised concerns. I agree with our investigator that Revolut ought to have contacted Mr R either by phone or via live chat and to have asked some probing questions around why he was making payments, whether there was a third party involved, how he'd met the third party, whether he'd been allowed to make any withdrawals, whether he'd been promised unrealistic returns and whether he'd been advised to make an onwards payment from B.

Our investigator concluded this wouldn't have uncovered the scam because Mr R had been coached to lie. But if he'd followed the scammer's advice and said he was making the payments for a friend or for business, I would expect Revolut to have queried why he was paying an account in his own name with a cryptocurrency exchange for either of those purposes. Had it done so, as he'd been coached to lie, I'm not persuaded Mr R would have fully disclosed the circumstances and with limited information, Revolut wouldn't have been able to say for sure that the investment was a scam.

I would still expect Revolut to have warned Mr R about cryptocurrency scams and to have drawn his attention to some of the common red flags including the involvement of a third party, social media, remote access software, small withdrawals and, critically, being advised to make an onwards payment from the cryptocurrency exchange. I would also expect it to have provided advice on how to conduct further checks, including checking the Financial Conduct Authority ("FCA") register.

I've considered whether such an intervention would have made any difference to Mr R's decision to go ahead with the payments and I don't think it would. There were some red flags present including the existence of a broker and the fact he'd been advised to make an onwards payments from B. But Mr R had been reassured by the fact he'd been allowed to make a small withdrawal and he'd already ignored a warning from B, which was from a well-known cryptocurrency merchant. Mr R has explained that he didn't make any further withdrawals to the wallet after he received the warning, but it's clear he'd believed the investment was genuine to the extent that the warning didn't lead him to question why the scammer had provided a wallet address which was associated with scams, and I don't think a warning from Revolut would have been any different.

I accept a warning from Revolut would have been more detailed, but there was no information about T on the FCA or IOSCO websites which would have confirmed T was operating a scam and I haven't seen any evidence that he'd had existing doubts or concerns which might have been brought to the fore by an intervention from Revolut. So, on balance, I think Mr R would likely have proceeded with the payments.

Consequently, while I think Revolut should have intervened, I don't think this represented a missed opportunity to have prevented his loss.

Compensation

The main cause for the upset was the scammer who persuaded Mr R to part with his funds, and I haven't found any errors or delays to Revolut's investigation, so he's not entitled to any compensation.

Recovery

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

My final decision

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 R to accept or reject my decision before 14 October 2024.

Carolyn Bonnell
Ombudsman