

The complaint

Mr M complains Revolut Ltd won't refund the money he lost to a scam.

What happened

In early 2023, Mr M responded to a social media advert for a cryptocurrency investment company, ("B"). After speaking to B and looking into them, Mr M decided to invest.

B told Mr M to set up an account with Revolut, in order to send money from that account to a cryptocurrency exchange ("E") – so that he could purchase cryptocurrency and load it to his trading account with B. He sent the following payments from his Revolut account in connection with the scam:

- 30 March 2023: £2,050 card payment to E
- 11 April 2023: £2,500 card payment to E

When B asked Mr M to make a further, much larger payment, he became suspicious. He asked about withdrawing funds, and B told him he needed to pay a fee – which he refused to do. He then realised he had been scammed.

Mr M complained to Revolut. He said it should have done more to protect him when he made the payments. It didn't agree to refund him, so he referred the matter on to our service.

Our investigator didn't uphold the complaint. He didn't think Revolut had cause to be concerned about the payments at the time, nor that it could have recouped the loss through the chargeback scheme.

Mr M has appealed the investigator's outcome, so the case has been passed to me. He says Revolut ought to have recognised the activity as indicative of fraud due to him loading money and then sending it straight on to a cryptocurrency merchant.

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 decided not to uphold it. I'll explain why.

In broad terms, the starting position at law is that an Electronic Money Institution ("EMI") such as Revolut is expected to process payments and withdrawals that a customer authorises it to make, in accordance with the Payment Services Regulations (in this case the 2017 regulations) and the terms and conditions of the customer's account.

But, taking into account relevant law, regulators rules and guidance, relevant codes of practice and what I consider to have been good industry practice at the time, I consider it fair and reasonable that, by the time of these payments, Revolut should:

- have been monitoring accounts and any payments made or received to counter various risks, including preventing fraud and scams;
- have had systems in place to look out for unusual transactions or other signs that might indicate that its customers were at risk of fraud (among other things). This is particularly so given the increase in sophisticated fraud and scams in recent years, which firms are generally more familiar with than the average customer;
- in some circumstances, irrespective of the payment channel used, have taken additional steps, or made additional checks, or provided additional warnings, before processing a payment (as in practice Revolut sometimes does including in relation to card payments);
- have been mindful of – among other things – common scam scenarios, how the fraudulent practices are evolving (including for example the common use of multi-stage fraud by scammers, including the use of payments to cryptocurrency accounts as a step to defraud consumers) and the different risks these can present to consumers, when deciding whether to intervene.

As Mr M has highlighted, I do agree that payments to cryptocurrency merchants may carry a heightened fraud risk due to how they can be used in multi-stage fraud. However, that doesn't mean most, or all, cryptocurrency-related transactions are connected to fraud.

Due to the number of high street banks that have placed restrictions on cryptocurrency transactions, many customers who wish to purchase cryptocurrency for legitimate purposes will be more likely to use the services of an EMI such as Revolut. I also need to take into account that Revolut needs to strike a balance between protecting against fraud and not unduly hindering legitimate transactions.

In light of this, I've carefully considered whether it was reasonable for Revolut to have processed these payments without intervening further. Overall, I'm satisfied it was.

I'm conscious this was a new account, so Revolut didn't know how Mr M normally transacted – to know what looked 'usual' for him. In that context, given the size of the first payment, and the fact it was being sent to a legitimate merchant, I don't think it presented such a significant fraud risk that it would be fair to hold Revolut at fault for not taking further steps to check the payment before processing it in line with the authorised instructions it received.

I appreciate Mr M's point about the funds being loaded in and out of the account. But with this being a new account, I don't think it looked as concerning when Mr M loaded funds prior to the payments. Arguably, it appeared the money was being loaded for a planned expenditure. It also appears the funds were loaded to Mr M's account the day *before* his first payment – making it appear less likely he was being put under immediate pressure to make it.

The second payment went to the same merchant as the first and was for a similar amount. So I don't think Revolut had cause to think that looked unusual either. There was also a gap of over a week in between the payments, so it didn't appear to be made under a time pressure. This payment also didn't utilise the full account balance.

In the circumstances, I'm not persuaded Revolut had cause to intervene further with this payment either. So, while I appreciate Mr M has lost this money to a scam, I'm not persuaded Revolut is at fault for failing to prevent this loss.

As the investigator covered, I also agree Revolut couldn't recover the lost funds through the chargeback scheme. That's because the scheme only allows for claims against the merchant paid directly. Here, the funds were sent to Mr M's own wallet with E - a legitimate cryptocurrency merchant who provided the expected service by crediting the funds to Mr M's account. In that scenario, a chargeback claim against E was unlikely to have succeeded.

My final decision

For the reasons given above, my final decision is that I do not 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 12 July 2024.

Rachel Loughlin
Ombudsman