

The complaint

Mr B complains that Wise Payments Limited (trading as Wise) refuses to refund the money he lost to an investment scammer.

Mr B is represented by a third party, but for ease of reading, I'll refer to all submissions as having come from him directly.

What happened

Around the end of October 2022, Mr B saw an advert on a social media platform for an investment company I'll call 'F'. The advert was endorsed by a well-known celebrity. Mr B was interested and filled out an online form. He was contacted by a representative of F on 5 November 2022. Mr B deposited £224 using his credit card account.

He was given access to an online portal where he could monitor his investments and was kept regularly updated by his account manager who promised him returns of 20-30% per month. After being persuaded with good initial returns, he decided to invest larger sums. Mr B used his bank account (Bank A) to transfer money to his Wise account. He converted those funds to Euros and made the following debit card payments ('the disputed payments') to a well-known crypto exchange I'll call 'C':

1. 17 November 2022 - €9,999
2. 28 November 2022 - €3,038.20

When Mr B tried to withdraw his profits, he was told he had to pay tax of £86,000 to release the £300,000 in his trading account. He was unable to do so and realised he'd been scammed.

Mr B complained to Bank A and Wise stating that neither did enough to protect him from financial harm. Bank A refunded 50% of Mr B's loss. Wise issued its final response explaining it wouldn't be refunding Mr B's loss.

Mr B referred his complaint to this service. One of our Investigators felt Bank A's refund of 50% of Mr B's loss with interest was sufficient as Mr B ought to have reasonably seen the negative reviews about F when he says he carried out his research. He also felt the profits appeared too good to be true.

Mr B didn't agree. He said it was a sophisticated scam and he deposited a small amount first to see how things would go before depositing larger more substantial funds.

The complaint has therefore been passed to me for determination.

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 don't uphold Mr B's complaint and I'll explain why.

It is common ground that the disputed payments were 'authorised' by Mr B for the purposes of the Payment Services Regulations 2017 ('the Regulations'), in force at the time. This is because they were made by Mr B using the legitimate security credentials provided to him by Wise.

However, taking into account the law, regulatory rules and guidance, relevant codes of practice and what I consider to have been good industry practice at the time, I consider Wise should fairly and reasonably:

- Have been monitoring accounts—and any payments made or received—to counter various risks, including anti-money-laundering, countering the financing of terrorism, and preventing fraud and scams;
- Have had systems in place to look out for unusual transactions or other signs that might indicate its customers were at risk of fraud (amongst other things). This is particularly so given the increase in sophisticated fraud and scams in recent years, which banks are generally more familiar with than the average customer; and
- In some circumstances, irrespective of the payment channel used, have taken additional steps, or made additional checks, before processing a payment, or in some cases declined to make a payment altogether, to help protect customers from the possibility of financial harm from fraud

I'm satisfied that F were scammers. There is a credible warning published about them by the Financial Conduct Authority (FCA). Mr B's experience of F also mimics common investment scams e.g. good returns followed by an inability to withdraw profits.

Having concluded this was a scam, I'll now consider whether I think there were any reasonable grounds for Wise to have intervened in Mr B's payments.

Mr B's account with Wise was newly opened, so there wasn't much activity to compare the disputed payments to. However, I agree with our investigator that the payment to C was for a substantial amount and it would have been fair and reasonable for Wise to have contacted Mr B to check that all was well.

Had it done so, and asked Mr B some simple questions about what he was doing, I have no reason to doubt that Mr B wouldn't have explained that he'd come across F online and they were endorsed by a well-known celebrity. I think this would have prompted Wise to be concerned as there were multiple scam reviews about F, along with a warning that was published about them by the FCA. I think this would have reasonably prompted Wise to provide Mr B with a warning, explaining the common types of investment scams it sees and that F were likely scammers – given the credible information published about them in the public domain.

As Mr B had only invested a small amount with F at the point of his initial payment to C from his Wise account, I think Mr B would have likely not sent F any further funds. And so, he wouldn't have lost any of the Wise disputed payments.

Although I'm satisfied a meaningful warning would've likely made a difference and prevented Mr B's loss, I must take into account whether Mr B contributed to his losses. And if so, whether it would be fair and reasonable to reduce any compensation owed to him.

I've read Mr B's complaint submissions on both his complaint against Bank A and Wise. In response to questioning from this service in relation to his Bank A complaint, Mr B said he carried out online research prior to investing with F and didn't see any negative reviews.

As Mr B didn't invest with F immediately and there were several days in between Mr B coming across F's advert and getting contact from them, I think it's likely that he would have looked into them. A simple online search ought to have revealed the negative reviews that had been published about F prior to Mr B discovering them. I think a reasonable person ought to have been dissuaded from investing with F given the negative online reviews about them that indicated they were unprofessional and a scam. I've also noted the FCA's warning was published prior to Mr B's contact with F. And if he had looked into them online as he says he did, this ought to have been concerning to him – particularly as he was promised such substantial returns by F's representative. Because of this, I think our investigator's conclusions for holding Mr B equally liable for his losses is reasonable.

As Mr B has already received back 50% plus interest of his overall losses from Bank A, I don't find that Wise are required to pay any additional sums to Mr B.

My final decision

My final decision is, despite my natural sympathies for Mr B's loss, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 15 January 2024.

Dolores Njemanze
Ombudsman