

The complaint

Ms M complains that J.P. Morgan Europe Limited trading as Chase did not refund a series of payments she lost as part of a scam.

What happened

Ms M was interested in investing some of her money, and found an advert online with celebrities, including Martyn Lewis, advertising a specific cryptocurrency investment that I'll call X. She felt she could therefore trust the recommendation and did a quick online search of the company and found nothing negative.

She made some initial investments and was then advised she needed to pay fees and taxes in order to withdraw the funds. When she was asked to pay more fees and still had not received a withdrawal, she realised she had been the victim of a scam. The following payments were made:

- 08/05/2023 - £250.48
- 09/05/2023 - £70
- 09/05/2023 - £1,500
- 11/05/2023 - £1,499
- 17/05/2023 - £1,000
- 28/06/2023 - £4,067
- 30/06/2023 - £3,254
- 06/07/2023 - £2,978
- 07/07/2023 - £3,960

Ms M raised a scam claim with Chase and they issued a final response letter on 27 July 2023 which explained that they had flagged a number of the payments for review and spoke with Ms M on a number of occasions. Each time they asked her about the payments and ran through scam warnings, but she still opted to make the payments. So, they didn't think there was much more they could have done.

Ms M referred the complaint to our service and our Investigator looked into it. They explained that the first payment to flag was the £1,500 payment on 9 May 2023. They listened to the phone call and ultimately felt Chase had not asked the kind of probing questions they would expect to ensure Ms M was not falling victim to a scam. Because of this, they felt Chase should refund Ms M from the payment of £1,500 onwards, however they felt Ms M should bear some responsibility for the loss so the refund should be reduced by 50%. Ms M agreed to these findings.

Chase disagreed and highlighted that six of the transactions were alerted for further review and further questions were asked to validate the payments and appropriate scam warnings were given. In addition, funds were transferred to a wallet in her own name before being passed on to the scammer, so they did not believe the loss should sit with them.

As an informal agreement could not be reached, the complaint has been 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.

Having done so, I've come to the same outcome as the Investigator for largely the same reasons. I'll explain why in more detail.

In deciding what's fair and reasonable in all the circumstances of a complaint, I'm required to take into account relevant: law and regulations; regulators' rules, guidance and standards; codes of practice; and, where appropriate, what I consider to be good industry practice at the time.

Broadly speaking, the starting position in law is that an account provider is expected to process payments and withdrawals that a customer authorises it to make, in accordance with the terms and conditions of the account. And a customer will then be responsible for the transactions that they have authorised.

It's not in dispute here that Ms M authorised the payments in question. As she believed they were part of a legitimate investment. So, while I recognise that she didn't intend the money to go to scammers, the starting position in law is that Chase was obliged to follow Ms M's instruction and process the payment. Because of this, she is not automatically entitled to a refund.

The regulatory landscape, along with good industry practice, also sets out a requirement for account providers to protect their customers from fraud and financial harm. And this includes monitoring accounts to look out for activity that might suggest a customer was at risk of financial harm, intervening in unusual or out of character transactions and trying to prevent customers falling victims to scams. So, I've also thought about whether Chase did enough to try to keep Miss M's account safe.

I acknowledge that Chase flagged six of the payments for further checks. As there was some form of intervention and contact with Ms M, I've gone on to consider the contact and the kind of questions that were asked, and warnings given. I've focused on the contact made about the first payment of £1,500 on 9 May 2023.

I can see that Ms M was asked where the payment was going to, and there was initially some confusion about this. It was established this was a payment to invest in cryptocurrency and Ms M made it clear that she was new to this and therefore inexperienced. The call handler checked that no-one had coerced Ms M into making the payment and that she was in control of her accounts, which she confirmed. The call handler then gave some general warnings about investments where the returns are too good to be true and that cryptocurrency in general is a high-risk venture where you can lose your money. This appeared to make Ms M a little hesitant, but she proceeded with the payment.

I've thought about whether this conversation was enough and on balance, I don't think it was. Considering the landscape of cryptocurrency investment scams at that time, I think Chase ought reasonably to have had a good understanding of how these scams work and that payments can go to a wallet in Ms M's name before being moved onto a scammer. So, I don't think their argument that the loss did not originate with them is relevant here. While there isn't a set list of questions that should be asked in each scenario, I think it would have been reasonable in this case for the call handler to ask Ms M how she came across the investment, especially as she had explained she was new to the process.

Based on how open and honest Ms M was in the phone call, I think she would have revealed

that she found the investment via an advert online in which celebrities including Martyn Lewis had promoted it. This a prominent feature of a known scam and I think the call handler could have given a more targeted scam warning to that scenario. In addition, this could have led to Ms M being advised to check the Financial Conduct Authority register for the company, which was not registered. As Ms M appeared to be hesitant on the phone when a general scam warning was read out, had she been given a more tailored warning about the features of her experience that were traits of a known scam, I think this would reasonably have stopped her from continuing to make the payments in question.

With this in mind, I agree that Chase should refund Ms M from, and including, the payment of £1,500 onwards. I also agree that Ms M should bear some responsibility for the loss so the redress should be reduced by 50%. I understand Ms M has already accepted the reduction in principle, so I won't go into more detail here about that.

Putting things right

Chase should refund Ms M from the payment of £1,500 onwards and a reduction to the redress of 50% should be applied.

Chase should also pay Ms M 8% simple interest from the date of each transaction to the date of settlement.

If Chase considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Ms M how much it's taken off. It should also give her a tax deduction certificate if she asks for one, so she can reclaim the tax from HM Revenue & Customs if appropriate.

My final decision

I uphold Ms M's complaint and direct J.P. Morgan Europe Limited trading as Chase to award the redress outlined above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms M to accept or reject my decision before 29 February 2024.

Rebecca Norris
Ombudsman