

## **The complaint**

Ms B complains that Revolut Ltd won't refund money she lost when she fell victim to an investment scam.

Ms B is being represented by solicitors in this complaint.

## **What happened**

The detailed background to this complaint is well known to the parties and has been previously set out by the investigator. The facts about what happened aren't in dispute. So, I'll focus on giving my reasons for my decision.

The complaint concerns three transactions totalling around £13,300 which Ms B made using her Revolut debit card in July 2023. She states these were made in connection with an investment opportunity provided by company, "X", whose advertisement she came across on social media.

Ms B's Revolut e-money account was opened as part of the investment opportunity to facilitate deposits into her account with X. She transferred funds into her Revolut account from her bank account with a high street bank "H". She then purchased cryptocurrency from a cryptocurrency exchange which was subsequently sent on to cryptocurrency wallets as instructed by her 'account manager'. At the time Ms B thought she was loading it on to her account with the investment platform as the balance went up accordingly.

Under X's advice, Ms B reverted to making deposits from her account with H. A complaint about H's acts and omissions has been considered separately by our service and this decision solely relates to Ms B's complaint about Revolut. In September 2023, when her investment account required further deposit to avoid losing everything, Ms B states she researched X further. It was then that she noticed negative reviews and a recent warning published by the Financial Conduct Authority.

Our investigator didn't uphold the complaint. They found that Revolut declined the first scam-related payment Ms B had attempted just a few days prior to the successful transaction. The investigator explained that Revolut made enquiries about the nature of the payment and Ms B was coached by the scammer on how to answer them. In doing so, Ms B prevented Revolut from discovering that she was falling victim to a scam.

Ms B's representative has asked for the matter to be decided by an ombudsman. It says Ms B wasn't being dishonest; she sought the scammers help as she didn't know how to answer the questions. The representative also says no questions were asked about the investment adviser when Ms B honestly stated that she had one.

## **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.

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. It isn’t in dispute that Ms B authorised the transactions in question. She’s therefore presumed liable for the loss in the first instance.

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 in July 2023 that 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); and
- 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.

On 11 July, three days before the first disputed transaction of £3,319.48 was authorised, Revolut declined Ms B’s attempt to send £3,550 to the same merchant. After informing her that this was due to the payment being highly likely scam related, based on another customer confirming a very similar transaction as a scam, Revolut went on to make further enquiries. I’ll go on to set out the relevant questions it asked and Ms B’s response to those questions.

*Q. Were you asked to create a Revolut account after learning about an investment opportunity advertised on social media?*

*A. No I have not seen anybody or anything advertised on social media.*

*Q. Have you received any unsolicited calls or messages recently telling you need to move you money to a safe account or to create a Revolut account for investment purposes?*

*A. No unsolicited calls I only speak with an investment adviser who I chose to work with.*

*Q. Are you buying cryptocurrencies?*

*A. Yes I am experienced in trading & buying crypto currency.*

*Q. How did you decide which crypto platform to use? Where did you learn about this platform?*

*A. I have been trading for years & know if (cryptocurrency exchange’s name) that way it very well known.*

Q. How long have you been investing in Crypto?

A. 4+ years

Q. You're doing everything by yourself, is that right?

A. Yes absolutely by myself.

In between these and other questions, Revolut provided the following scam warnings to Ms B before unrestricting the account to allow subsequent payments to be sent:

*"Scammers often use tactics to trick you into buying cryptocurrencies from fake websites and investment platforms."*

*"Always take your time before making an investment decision. Scammers will try to convince you that you will miss out on an opportunity if you do not send money quickly. If this is the case, please ignore any further contact from individuals asking you to invest your money quickly. It is important to only purchase cryptocurrency from a reputable company. Scammers often use tactics to trick you into buying cryptocurrencies from fake websites and investment platforms."*

*"Please be aware that scammers are using increasingly sophisticated techniques to gather personal information and convince customers to transfer funds in complex scams. If you have any concerns then do not proceed and let us know, we will be here to further assist you."*

We now know that Ms B reached out to the scammer and asked for help in answering Revolut's questions. The responses provided gave Revolut reassurance that Ms B knew what she was doing and that she had long-term experience in cryptocurrency dealings.

Ms B's representative submits that not one question was asked about the investment adviser when she mentioned that in her response. But, in the individual circumstances of this case, I don't think Revolut needed to. I say this because I don't necessarily read Ms B's response in the same way as her representative. In my view, in response to the question about unsolicited calls, Ms B makes a general statement that she only speaks with an investment adviser she chooses to deal with. I don't think that necessarily means an investment adviser was involved in this instance. This is supported by the fact that later on in the communication, she confirmed to Revolut that no one else was involved and that she was doing everything herself.

I accept that Revolut's questions could have been more probing – it's easier to be critical with the benefit of hindsight. And so, it's not inconceivable that it could have gone back to clarify that point about whether Ms B was being assisted. But we know Ms B was looking to the scammer for advice on how to answer Revolut's questions. And she didn't have any concerns when she was instructed to mislead Revolut about seeing the advertisement on social media, her trading experience, as well as those involved. On balance, I'm not persuaded that the scammer would have advised Ms B to give an answer that could have led to Revolut identifying there was a heightened risk of financial harm from fraud.

I can only ask Revolut to reimburse Ms B if I find that any wrongdoing on its part caused her loss. That concept is one her representative should be very familiar with. Yet it has not sought to substantiate its arguments as to why better questioning would have resulted in Ms B acting any differently given contemporaneous evidence shows she misled Revolut.

What this means is that I'm not persuaded Revolut could have prevented the transactions Ms B made in relation to the scam.

I've also thought about whether Revolut could have done more to recover the funds once it became aware of the situation, as in some circumstances the money can be recovered. Here, the recovery avenue would have been limited to chargeback. But Ms B's payments went to a cryptocurrency exchange. She wouldn't be able to make a successful chargeback claim in the circumstances because the merchant she paid did provide the service requested (i.e., conversion of fiat money into cryptocurrency). For completeness, Revolut couldn't attempt a chargeback against any another party.

In summary, I know that Ms B will be disappointed with this outcome. Not least because the matter has been ongoing for some time. I fully acknowledge that there's a considerable amount of money involved here. Despite my natural sympathy for the situation in which Ms B finds herself, for the reasons given, it wouldn't be fair of me to hold Revolut responsible for her loss.

### **My final decision**

For the reasons given, my final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms B to accept or reject my decision before 27 November 2024.

Gagandeep Singh  
**Ombudsman**