

## **The complaint**

Mr M complains that Wise Payments Limited 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.

In October 2022, Mr M saw an advert on social media for an investment company I'll refer to as "C", which was endorsed by a well-known celebrity. He followed a link on the advert to C's website which included an about us section, FAQs, and a 24/7 live chat option. The website also provided details of the company directors, giving a brief synopsis of their experience, and confirmed traders can access currency pairs, stocks and nine different cryptocurrencies.

Based on the positive reviews he saw online and the company website, Mr M decided to complete an online enquiry form and was contacted the following day by someone who I'll refer to as "the scammer" who claimed to work for C. The scammer said he had experience working for various financial institutions and told Mr M he'd be given a trading account and that he would be given advice on what to invest in. He instructed Mr M to open an account on C's trading platform which required him to provide two forms of photo ID as part of the KYC and Anti-Money Laundering (AML) regulations. He also told him to download AnyDesk remote access software to his device, explaining it would allow him to trade on his behalf and guide him through the process.

The scammer gave Mr M login details for his trading account, which showed the fluctuating rates of various currencies. He also told him to open an account with a Wise. He told him there was no minimum investment but the higher the deposit, the higher profits.

On 22 November 2022, the scammer used AnyDesk to process a payment of £250 from an account he held with Bank B for membership to C. Mr M was then told to transfer funds to the Wise account from Bank B. From there he would purchase cryptocurrency through a cryptocurrency exchange company I'll refer to as "B" and then load it onto an online wallet. Between 22 November 2022 and 6 December 2022, Mr M made seven debit card payments to B totalling £37,383.79 from his Wise account. On 20 February 2023 and 1 March 2023 he received refunds of £244.13 and £1,262.08. He also made further payments to the scam from an Electronic Money Institution ("EMI") which I'll refer to as "R".

In February 2023, Mr M told the scammer he wished to make a withdrawal. The scammer told him he'd have to pay a series of fees including insurance, a 25% liquidity fee, and capital gains tax and, trusting the scammer's explanation for why this was necessary, Mr M made further payments. Upon processing the final payment, he asked to make a withdrawal and the scammer grew aggressive and suggested he was at risk of losing everything should he fail to pay the fees. At this point Mr M realised he'd been scammed and complained to Barclays.

Mr M complained to Wise with the assistance of a representative who argued that it should have intervened as he was making high value payments to a new payee which was linked to cryptocurrency and that it failed to pick up on known fraud indicators. They said Mr M opened the account and funded it with a credit of £1,000 before paying the same amount straight out to a high-risk cryptocurrency merchant.

They said Wise ought to have contacted Mr M and asked whether there were any third parties involved in the investment, whether the rate of return was plausible, whether he'd discussed the investment with anyone and whether he'd received any withdrawals. They said he was confident the investment was genuine so he would have been honest and explained that everything had originated from an account manager. And Wise should have provided a warning because it would have been obvious he was being scammed.

Wise refused to refund any of the money Mr M had lost because it didn't accept the payments were suspicious. Mr M wasn't satisfied and so he complained to this service, but our investigator didn't think the complaint should be upheld. He accepted Wise should have intervened because Mr M was paying a cryptocurrency merchant, but he didn't think it would have made a difference because when Bank B intervened on 8 December 2022, Mr M denied there was a third party involved and he chose to go ahead with the payments. He also noted that Wise contacted Mr M in February 2023 in respect of other high-value transfers out of the account. During this interaction Mr M stated 'please do not hold transfers around my account, it is in my personal use and control and if transfers will hold and be stuck, it will make my business and via that my regular life, complicated'.

Consequently, based on Mr M's conduct during those interactions, our investigator was satisfied that even if Wise had intervened, there was nothing it could reasonably have done to prevent the scam.

Finally, he explained there would have been no prospect of a successful chargeback because Mr M received a service from B. He was satisfied some funds were recovered and sent to Mr M's Wise account and he didn't think he was entitled to any compensation. Mr M has asked for his complaint to be reviewed by an Ombudsman.

## **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'm sorry to hear that Mr M has been the victim of a cruel scam. I know he feels strongly about this complaint and this will come as a disappointment to him, so I'll explain why.

I've thought about whether could have done more to recover Mr M'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. Wise) acted fairly and reasonably when presenting (or choosing not to present) a chargeback on behalf of its cardholder (Mr M).

Mr M's own testimony supports that he used a cryptocurrency exchange to facilitate the transfers. It's only possible to make a chargeback claim to the merchant that received the disputed payments. It's most likely B would have been able to evidence they'd done what was asked of them. That is, in exchange for Mr M'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 Wise's decision not to raise a chargeback request against either of the cryptocurrency exchange companies was fair.

I'm satisfied Mr M 'authorised' the payments for the purposes 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, Mr M is presumed liable for the loss in the first instance.

I'm satisfied this was a scam, but although Mr M didn't intend his money to go to scammers, he did authorise the disputed payments. Wise 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*

Wise 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 Wise 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, Wise 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 M when he tried to make the payments. If there are unusual or suspicious payments on an account, I'd expect Wise to intervene with a view to protecting Mr M from financial harm due to fraud.

The payments didn't flag as suspicious on Wise's systems. This was a newly opened account and so there was no account history to compare the payments with. All the payments were to a legitimate cryptocurrency exchange and the first payment was low value, so I don't think Wise needed to intervene. However, the second payment (which was processed the following day) was for £5,800 and I think Wise should have given Mr M a written warning. Further, by the time he paid £10,000 on 2 December 2022, he had made four payments to a cryptocurrency merchant in twelve days from a newly opened account having received significant credits into the account. I think this was concerning and Wise should have intervened to question Mr M about the payments.

Wise should have asked Mr M why he was making the payments, whether there was a third party involved and if so how he met them, whether he'd been promised unrealistic returns, whether he'd made any withdrawals, whether he'd been advised to use remote access software and whether he'd been advised to make an onwards payment from B. It should also have discussed with him the nature of the due diligence he'd undertaken, provided a tailored scam warning and provided advice on additional checks he could do to ensure the investment was genuine.

However, based on the conversation Mr M had with Bank B when it stopped a payment he was trying to make from that account, I don't think he would have cooperated with Wise had

it intervened when I think it should have done. Bank B contacted Mr M to discuss a payment he was trying to make to a cryptocurrency exchange on 8 December 2022. On that occasion, the call handler tried to question him about the payment and he did confirm he was buying cryptocurrency. But he refused to give any further information about the payment insisting it was private and that he didn't have to answer. Critically, Mr M didn't disclose any information about the investment and the call handler was prevented from asking any probing questions. The call ended with the call handler refusing to approve the payment, telling Mr M he would have to attend the branch.

I've considered what happened during this call and I'm satisfied Mr M was asked relevant questions and that his refusal to engage meant the call handler was prevented from identifying that the payments were being made to a scam. This also meant the call handler was prevented from giving a tailored warning or providing advice on additional due diligence.

Critically, based on what took place during the call with Bank B, if Wise had intervened, I think it's unlikely Mr M would have cooperated or provided enough information for it to have identified that he was being scammed and so I don't think the outcome would have been any different. And without any information from Mr M about the circumstances of the investment, I wouldn't expect Wise to have blocked the payment altogether.

In reaching this conclusion I've also considered the comments Mr M made on 23 February 2023 when Wise contacted him about other high-value transactions from the account and the fact he ignored written warnings from R when he made payments from that account. I'm satisfied Mr M was convinced the investment was genuine to the extent that he wasn't willing to engage with any of the banks interventions or pay attention when he was given warnings. So, while I accept Wise should have intervened, I don't think this would have prevented Mr M's loss and so I can't fairly ask it to do anything to resolve this complaint.

### *Compensation*

Mr M isn't entitled to any compensation or legal costs.

### *Recovery*

I note Wise did successfully recover some of the funds and that they were refunded to Mr M's account.

Overall, I'm satisfied Wise took the correct steps prior to the funds being released – as well as the steps it took after being notified of the potential fraud. I'm sorry to hear Mr M has lost money and the effect this has had on him. But for the reasons I've explained, I don't think Wise is to blame for this and so I can't fairly tell it to do anything further to resolve this complaint.

### **My final decision**

For the reasons I've outlined above, 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 M to accept or reject my decision before 25 April 2024.

Carolyn Bonnell  
**Ombudsman**