DRN-4710483

The complaint

Mr P complains that J.P. Morgan Europe Limited, trading as Chase ("Chase") didn't do enough to protect him when he fell victim to a scam.

What happened

The details of this complaint are well known to both parties, so I won't repeat them again in full here. Instead, I'll summarise what happened and focus on giving the reasons for my decision.

Mr P made a small investment in 2022. Having not heard anything further about this, Mr P got in touch and was told by the scammer that he'd made a substantial profit, which led to him investing further. Mr P made three payments totalling just over £8,500 in June 2023.

Realising he'd been scammed, he complained to Chase. But it didn't uphold his complaint. It said it had asked questions to make sure Mr P was comfortable sending the funds and that he hadn't performed any due diligence before proceeding.

Unhappy with this, Mr P brought his complaint to our Service, via a representative. Our investigator considered it, but he didn't think it would be fair to ask Chase to refund Mr P. He thought Chase could have done more to probe Mr P in the call about the payment of £6,900 he was trying to make. But he concluded that Chase couldn't reasonably have uncovered that Mr P was falling victim to a scam due to the responses he gave under the coaching of the scammer.

Mr P disagreed. His representative felt that it was clear Mr P didn't know what was going on and gave vague and conflicting answers. And it felt there was a missed opportunity to prevent the scam due to the generic nature of the intervention.

So, the complaint has been passed to me to decide.

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, while I know how disappointing this will be for Mr P, I'm not upholding this complaint – I'll explain why.

I'm satisfied that the payments were authorised. So, the starting position is that Chase would be expected to carry out the payment instructions. But, taking into account relevant rules, codes, and best practice standards, I've thought about whether Chase's intervention at the point of the first payment, which was for £6,900, was sufficient.

In the first telephone conversation between the adviser from Chase and Mr P, it was established that Mr P had opened the Chase account himself, was making the payment himself, that he hadn't been asked to move money to another company or a 'safe' account and that he had control of the account. Mr P was open about making the payment with the intention of making money. He was advised that if it turned out he'd been the victim of a scam, he wouldn't get his money back. Mr P said a family member had told him about the investment and had had success with it – which wasn't true.

Chase asked Mr P if he'd checked the company with the FCA and whether he'd checked reviews – which he confirmed he hadn't. He was then advised that crypto assets are very high risk, speculative investments and that he would need to be prepared to lose all of his money. The adviser said she'd tried to find the company and found a link with motor vehicles, not with investments or cryptocurrency. She asked if Mr P would like to proceed, which he confirmed he did. But it was clear the adviser was uncomfortable with processing the payment at this point based on the answers Mr P had given. Given that Mr P had a personal appointment to attend, it was agreed that the payment would be put on hold and the adviser would call him back later that day.

In the next call, Mr P assured the adviser he'd spoken with his family member and that the company he was paying was a crypto exchange. He was confident the company was legitimate. As a result, the payment was made.

I'm not persuaded that the intervention from Chase went as far as it should have. It was apparent from the calls, particularly the first one, that Mr P didn't fully understand the ins and outs of the purported investment – he was hoping to make money but seemed to have no information about the expected returns. He also seemed to know very little about the company. And it's clear the adviser had concerns by suggesting delaying the payment and given that she had done a small amount of research on the company herself.

However, I've thought carefully about whether an appropriate intervention, with proportionate enquiries, would likely have unravelled the scam. And I'm not persuaded it would have done. I say this because Mr P made it clear within his testimony, and by his actions, that he trusted the scammer. When Chase raised the issue of whether the investment company was regulated, rather than doing his own research, he sought reassurance from the scammer who told him the company was regulated abroad – and relayed this back to Chase. And I can see from the communication with the scammer, Mr P said "*They are saying it's a scam I'm worried to death…" "Dear… of course that's not true… please… behave yourself… they are against our strategy…don't forget our plan… you do not have to be scared… it can not be a scam."*

On the advice of the scammer, Mr P also took out a loan and said this was to renovate his kitchen. When transferring funds to his Chase account from a third-party bank, he again said this was for his kitchen. He was asked by this same third-party bank if he'd been asked to lie by anyone, to which he said he hadn't. But this wasn't true – he'd been advised by the scammer to lie.

So, I've thought carefully about what would have happened if Chase had asked more probing questions about the attempted payment. I don't know what Mr P would have said or if there would have been any hesitation in his responses, but it seems likely that, had he been asked more questions, he again would have turned to the scammer for reassurance and for advice on how to answer the questions posed. I say this as we know that Mr P was willing to turn to the scammer to provide answers when Chase raised concerning issues, such as whether the investment company was regulated and whether it was really a crypto exchange as opposed to dealing with motor vehicles.

I think the crucial part here, in trying to determine a fair outcome, is thinking about what he thought he was paying for and what his intentions were. Mr P thought he was paying towards a legitimate investment, and he thought the scammer was genuine and trustworthy. His actions show that he wasn't deterred from investing by the suggestion he should mislead

Chase. Indeed, in trying to persuade Chase of his confidence in the investment, he referred to the scammer as a family member who had experienced success with it. And I think it's reasonable to say that, generally, a family member would be less likely to mislead, so the fact the 'family member' had also been successful with the investment would have been quite reassuring to Chase. So, I think his intention here was to say and do what he needed to in order for that payment – to an investment he trusted at the time – to be made. I don't think further probing would have uncovered the scam as I'm satisfied he was under the spell of the scammer.

I've considered the remaining payments but due to the much lower value of these, I wouldn't have expected them to have triggered Chase's fraud alert systems. I would also add that there was no reasonable prospect of recovery here so I wouldn't have expected Chase to do anything further here.

So, while I'm very sorry that Mr P has been the victim of a cruel and manipulative scam, I don't think it would be fair or reasonable to hold Chase liable for his losses.

My final decision

For the reasons given above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 29 November 2024.

Melanie Roberts
Ombudsman