

The complaint

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

What happened

The detailed background to this complaint is well known to both parties and has been previously set out by the investigator in their assessment. So, I won't repeat it again here. Instead, I'll focus on giving my reasons for my decision.

The complaint concerns four transactions – all card payments – totalling £18,000 which Mrs M made from her Revolut account between February and May 2023. These were made in connection with an investment opportunity with a firm "V", who Mrs M came across and was persuaded to invest with.

Under the instructions of V's representative (her agent), Mrs M set up an account with V. She's explained that the individual guided her in making deposits into her investment account. Mrs M made payments to a cryptocurrency platform "B" using her Revolut debit card, before sending the purchased cryptocurrency to wallets as instructed.

Mrs M believed she was making deposits into her account with V as the balance went up accordingly. Unfortunately, unbeknownst to her at the time, she sent the cryptocurrency to fraudsters. It wasn't until after her subsequent withdrawal requests were denied that Mrs M realised she had been scammed.

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.

I'd like to thank Mrs M and Revolut for their patience while the complaint has been awaiting an ombudsman's decision. And I'm sorry to hear about the circumstances which led to this complaint.

I'd like to reassure both parties that although I've only given an overview of what happened, so not everything that happened or has been argued is mentioned, I've read and considered everything we've been provided in its entirety.

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's not in dispute that Mrs M authorised the payments she seeks to recover.

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 February 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.

EMIs are set up with the purpose of sending and receiving money and the type of payments they're generally used for tends to be somewhat different to banks and building societies. Often, the payments will be for larger sums. Where there's little previous account history, as was the case here, what should reasonably strike Revolut as concerning for a first payment isn't down solely to the transaction amount involved.

I've considered that the disputed transactions were sent to a cryptocurrency platform. I accept that buying cryptocurrency is a legitimate exercise. But by February 2023, there had been an increased prevalence of investment scams involving cryptocurrency. Both the financial services regulator, the Financial Conduct Authority (FCA), and Action Fraud had warned of cryptocurrency scams. This type of insight is something that regulated businesses, including Revolut, ought to take notice of.

Given the above, I'm satisfied that Revolut ought to have recognised that the first card payment (£3,000) carried a heightened risk of financial harm from fraud. It was identifiably cryptocurrency related given it went to a cryptocurrency platform.

In the circumstances, and at that time, I consider that a proportionate response to that risk would have been for Revolut to have provided Mrs M with a written warning about cryptocurrency investment scams tackling some of the typical features.

But, had it done so, I'm not persuaded that the warning would have prevented Mrs M's loss. I say this because at the time of reporting the scam to Revolut, Mrs M said she would have ignored any warnings from Revolut as V's representative (the scammer) had already provided her with reassurances that the company would soon be authorised by the FCA. Mrs M added that she would have assumed that Revolut wouldn't have been aware of that, which is why the warning was being provided.

I've considered that not being FCA authorised is just one of several typical features of investment scams I would have expected Revolut to have covered in its warning. But, on balance, I still think that a written warning is unlikely to have positively impacted Mrs M's decision-making. In reaching that conclusion I've kept in mind that she's said she had managed to successfully make a withdrawal from the investment by the time she made the disputed payments from Revolut. This gave her confidence in the validity of the company.

I'm also mindful that the scammer, who was guiding Mrs M in making the payments and therefore would have been contactable for any queries, would likely have provided further reassurances had Mrs M raised any concerns after seeing Revolut's warning.

This was no doubt a sophisticated scam and the cruel actions of the scammer led to Mrs M losing a considerable sum of money. But this complaint is about Revolut's acts and omissions. Causation is critical determinative factor in every scam case. It isn't enough that Revolut failed to provide a scam warning; I also need to be satisfied that this failure was the immediate and proximate cause of the losses Mrs M suffered. In the circumstances of what happened here, for the reasons I've set out above, I'm not convinced that a written scam warning by Revolut at the time of the first payment – or indeed the later payments – would have prevented Mrs M's loss.

Recovery wise, as these were debit card payments the recovery avenue would have been limited to raising a chargeback. But Mrs M's payments didn't go V directly, they went to a cryptocurrency platform B where the funds were converted to cryptocurrency before being sent on to cryptocurrency wallets as instructed by the scammer. In this instance, a chargeback against the merchant her payments from Revolut went to (i.e., B) wouldn't be successful given it did provide the service requested (i.e., conversion of fiat money into cryptocurrency). That is what happened here when Revolut raised a chargeback on the disputed transactions, as B defended it. For completeness, Revolut could not have raised a chargeback against a different business (such as V).

In conclusion, I know that Mrs M will be disappointed with this outcome. Despite my natural sympathy for the situation in which she finds herself due to the scammer's actions, 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 Mrs M to accept or reject my decision before 17 October 2024.

Gagandeep Singh
Ombudsman