

The complaint

Mr S complains that Revolut Ltd (“Revolut”) won’t refund the money he lost as a result of an investment scam.

He’s being supported by a representative. To keep things simple, I’ll refer to Mr S throughout this decision.

What happened

The background to this complaint is known to both parties, so I won’t repeat all the details here. In summary, Mr S says:

- In August 2022, he was looking for opportunities to invest and came across a broker called Richardson Lewis (the scammer) on a social media advert, which was seemingly endorsed by a celebrity. He filled in an online enquiry form and was called by someone claiming to be their representatives. He was told they’d be acting as his broker.
- An initial start-up fee of £250 was paid from an account he held with another bank and an ID verification process was completed, adding to the legitimacy of the investment. He was told to download remote access software and with the scammer’s help he opened a new Revolut account and accounts with crypto-exchanges in his name to start ‘trading’.
- A series of card payments were then made over a period of around five months from the Revolut account to his crypto-exchanges and on to the scammer. He realised he’d been scammed when, having paid several ‘withdrawal fees’ and assuming he’d completed the necessary steps to receive his money, he was instead pestered by the scammer to pay more – and the communication between them became more hostile when he refused.

I’ve listed below the transactions I’ve considered as part of this complaint.

Date	Time	Transaction type	Payee	Amount
06-Sep-22	10:59:41	Card	Crypto.com	£4,990
20-Sep-22	10:37:34	Card	Cro	£9,500
20-Sep-22	10:41:48	Card	Crypto.com	£5,500
03-Oct-22	<i>Declined payment attempts</i>			£9,990.03
25-Oct-22	14:20:02	Card	Crypto.com	£926.91
25-Oct-22	14:26:57	Card	Crypto.com	£9,578.07
31-Oct-22	16:22:36	Card	Cro	£5,252.49
09-Jan-23	11:51:19	Card	Cro	£19,568.10
09-Jan-23	13:45:02	Card	Crypto.com	£15,984.05
09-Jan-23	14:25:35	Card	Binance	£3,700
18-Jan-23	11:28:46	Card	Crypto.com	£28,303.98
19-Jan-23	12:05:14	Card	Binance	£29,520
26-Jan-23	10:40:49	Card	Cro	£29,455.14
26-Jan-23	13:26:31	Card	Cro	£3,893.02

31-Jan-23	17:19:21	Card	Binance	£5,800
31-Jan-23	18:42:50	Card	Binance	£5,180

A complaint was made to Revolut and declined in May 2023. The matter was then referred to the Financial Ombudsman. Our Investigator considered it and didn't uphold it.

In summary, she found that Revolut did intervene and asked Mr S proportionate questions about the nature his payment, but he'd not been honest with his answers. She also thought that even though Revolut ought to have intervened again later into the scam it's unlikely he'd have been truthful about what he was doing. As such, it was unlikely any intervention would have uncovered the scam – and it wouldn't therefore be fair and reasonable to hold Revolut liable for Mr S's losses in these circumstances.

I issued my provisional decision to both parties on 4 April 2024. The background was set out as above and I said I wasn't minded to uphold this complaint as I wasn't persuaded Revolut can fairly and reasonably be held liable for Mr S's losses. I provided the following reasons:

Authorisation

It's not in dispute Mr S was scammed and I'm sorry about the impact the whole experience has had on him. It's also not in dispute that he authorised the payments from his Revolut account. So, although he didn't intend the money to go to a scammer, under the Payment Services Regulations 2017, Mr S is presumed liable for his losses in the first instance. And as the Supreme Court reiterated in Philipp v Barclays Bank UK PLC, banks generally have a contractual duty to make payments in compliance with the customer's instructions.

Prevention

There are, however, some situations where I consider that a business, taking into account relevant rules, codes and best practice, should reasonably have taken a closer look at the circumstances of a payment – if, for example, it's particularly suspicious or out of character.

In this case, it's arguable that the spending on the account ought to have triggered Revolut's fraud prevention systems sooner than it did on 3 October 2022 – considering, for example, the payment amounts and the activity on the account on 20 September 2022. There's also an argument for saying there should have been more than one intervention considering, for example, the increase in value and pattern of spending in January 2023 and what Revolut ought to have known by that time about how these types of scams take place.

Causation

That said, even accepting Revolut could reasonably have done more to protect Mr S from a heightened risk of financial harm, there's evidence to show he gave misleading and incomplete answers when questioned about the nature of his transactions.

As noted by the Investigator, when Revolut did intervene to ask Mr S about his payment attempts on 3 October 2022, he was asked a series of questions – including whether he'd been asked to install remote access software; if he'd received recent calls from anyone telling him to create a Revolut account; and if he'd been contacted or encouraged to invest by someone he didn't know or had only recently met online. Mr S was short with his answers and at no point did he say anything about what was really

happening. He instead responded “no” to all the above questions and asked Revolut to unblock the account and return his money to the originating bank if it wasn’t going to comply with his payment request.

I appreciate Mr S can’t recall why he wasn’t honest with his answers and I’m mindful he may have been coached by the scammer on what to say for his payments to go through without issue. I’ve also considered his comments that things may have played out differently if Revolut had asked contextualised questions and provided scam education in its intervention.

But it’s important to note Revolut wouldn’t have known for certain Mr S was falling victim to a scam either. It’s also important to note a business isn’t expected to subject its customers to an interrogation. It’s expected to ask suitable questions designed to unearth a potential scam and establish if the customer is at risk of financial harm. I’m satisfied that Revolut did so here. And because, as the evidence shows, Mr S wasn’t going to provide honest answers to this sort of questioning, then I’m not convinced Revolut could reasonably have uncovered the scam at that time even if it had probed further or explained more as to the reasons for its questions.

In support of this view, I note Mr S referred a separate complaint to our Service in relation to this scam but about the actions of another bank. A recording of an intervention call Mr S had with that bank on 9 January 2023 shows he was again untruthful about what was happening. In particular, when asked about the purpose of his payment, he responded it was to help out a “member of family”. And when asked if he’d been told to lie to the bank, he confirmed he hadn’t. There was no mention of using his money to invest in crypto-currency with someone he’d recently found online. This is despite the bank having first clearly explained: “It’s really important that you’re honest with us during this conversation so that we can help protect you...criminals can be very convincing and ask you to mislead the bank to avoid detection. If anyone has asked you to lie or mislead the bank as part of this payment request it’ll be a scam. This includes giving a different payment reason to the one that’s true.”

I again acknowledge it may have been appropriate for Revolut to have intervened more than it did, given the payment activity later into the scam. But given Mr S wasn’t honest when he was contacted by Revolut in October 2022 or by his other bank in January 2023, it’s difficult to conclude, on balance, he’d have been upfront about what was really happening if Revolut had questioned him again on the nature of his payments. His own testimony shows how he was taken in by an elaborate scam. The profits he believed he was making were appealing. He’s explained why, as is common with this type of scam, he thought he’d built a “trusting relationship” with someone he believed was a genuine and expert broker. And I’ve not seen enough to persuade me, for example, he’d developed a level of concern about the scammer, as the scam went on, such that a further intervention would have likely broken the spell.

Taking all of the above into account, I’m not persuaded it’d be fair and reasonable to hold Revolut liable for Mr S’s losses in these circumstances as it seems more likely than not he’d always have given misleading information and gone ahead with his payments irrespective of the timing or type of any intervention.

Recovery

In general, a business should attempt to recover lost funds once a scam has been reported. In this case, the card payments were made to legitimate merchants before being sent onto the scammer. It’s therefore unlikely Revolut would have been able to

facilitate a recovery of that money through a successful chargeback claim, as Mr S would have received the services and products as intended.

Responses to provisional decision

I invited further comments and evidence from both parties. Revolut didn't respond to my provisional decision. Mr S replied saying, in summary:

- He doesn't have prior history of investing and as such it should have caused Revolut grave concern his account was being used for crypto-currency payments all of a sudden. The first payment alone should have caused concern due to the sheer value to a high-risk payee. It's known platforms such as this are highly utilised by scammers.
- It's appalling Revolut's line of questioning can be deemed enough to determine Mr S was falling to a scam. At no point was he asked how he found out about the investment, if he'd checked with the FCA or if he'd received a second opinion. Had Revolut probed further and was truly interested in satisfying itself the investment was genuine, it would have realised this was a scam. At a minimum it should have provided proper education.

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 decided not to uphold it – largely for the same reasons I provided in my provisional findings, which are set out above and form part of this final decision.

I appreciate Mr S may have had no experience in crypto-currency investments and that the card payments were made to crypto-currency merchants. And I've already acknowledged it's arguable that the spending ought to have triggered Revolut's fraud detection systems earlier and that it may have been appropriate for it to have intervened more than it did.

But I'm mindful that Revolut would have had limited knowledge of Mr S's typical account activity and spending, given the account was opened as part of the scam. It's also again relevant to note Revolut wouldn't have known for certain Mr S was being scammed; and that when Revolut intervened, it did ask a series of questions to establish if Mr S was likely at risk of financial harm. I'm satisfied the line of questioning was appropriate. And, in any event, I can't ignore Mr S wasn't honest with many of his answers – so, when thinking about causation, I'm not convinced he'd have been upfront about what was really happening (and that the scam would have been unravelled), even if I were to agree that Revolut ought to have probed further or provided scam education, despite the responses it had received.

In reaching this view, I referred to a separate intervention that was later carried out by the bank with which Mr S held an account, from which the disputed amounts originated. At that time, Mr S was again asked questions about the reasons for his payment. It was made clear to him it was important he answered honestly to help the bank protect him and that criminals could be very convincing and ask him to mislead the bank to avoid detection. I explained that, despite this message, Mr S replied that the payment was to help out a “family member” and confirmed he'd not been told to lie to the bank. So he was again untruthful with his responses – and I'm not persuaded he'd have likely been honest about the nature of his payments if Revolut had stepped in and questioned him again.

I'm sorry Mr S has fallen victim to such a cruel scam. I can understand why he wants to do all he can to recover his money. But I don't consider it would be fair and reasonable to hold Revolut liable for his losses in circumstances where, on balance, it's likely he'd always have

given misleading information and gone ahead with his payments notwithstanding any intervention. I'm not therefore persuaded that Revolut should refund him.

My final decision

For the reasons I've given, I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 31 May 2024.

Thomas Cardia

Ombudsman