DRN-4794310

Financial Ombudsman Service

The complaint

Mr B complains about J.P. Morgan Europe Limited trading as 'Chase'.

He says that Chase didn't do enough to protect him when he fell victim to a cryptocurrency scam and would like it to refund him the money he has lost as a result.

What happened

Mr B had received an inheritance from his late parents and was keen to maximise his funds and support his children through university. He was browsing online and came across an advert for a company supposedly endorsed by a well-known celebrity, promoting investment in crypto.

He completed an enquiry form and was then contacted by a representative who seemed professional and knowledgeable. Mr B was told to open an account with Chase, and to download AnyDesk. Mr B then moved money from his bank account with H and purchase crypto from is account with Chase. After making several payments, Mr B tried to make a withdrawal from his investment but was told he needed to pay further funds to do so, however after making several payments the withdrawal was still not processed. Mr B then contacted a genuine company that the scammer has been impersonating and was told he had been the victim of the scam.

By this point, Mr B made the following payments F and B are legitimate crypto exchanges.

Payment	Date	Payee and type	Amount
1	15/05/2023	Faster payment to F	£25,000
2	19/05/2023	Faster payment to F	£25,000
3	30/05/2023	Credit from F	£25,000 credit
4	31/05/2023	Faster payment to F	£25,000
5	06/06/2023	Faster payment to F	£18,500
6	26/06/2023	Faster payment to F	£7,474
7	26/06/2023	Faster payment to F	£3,670
8	28/06/2023	Faster payment to F	£3,670
9	04/07/2023	Card payment to B	£5,000
10	19/07/2023	Card payment to B	£1,500
		Total loss	**£89,979**

After realising he has been scammed, Mr B made a complaint to Chase, but it didn't uphold it. He then brought his complaint to this Service.

Our investigator looked into things and thought that Mr B's complaint should be upheld – but also that Mr B should be held responsible for 50% of the loss as he wasn't as careful as he should have been.

Mr B accepted this, but Chase did not. It said that as Mr B hadn't been completely truthful with it, and it wasn't persuaded that a better intervention would have prompted Mr B to be more forthcoming with information or uncovered the scam.

As Chase didn't agree, the complaint has been passed to me to make a final decision.

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 have decided to uphold this complaint in part – for broadly the same reasons as out Investigator. I'll explain why.

In broad terms, the starting position at law is that banks and other payment service providers (PSP's) are expected to process payments and withdrawals that a customer authorises it to make, in accordance with the Payment Services Regulations and the terms and conditions of the customer's account. And I have taken that into account when deciding what's fair and reasonable in this case.

Mr B authorised the payments in question – so even though he was tricked into doing so and didn't intend for the money to end up in the hands of a scammer, he is presumed liable in the first instance.

But this isn't the end of the story. As a matter of good industry practice, Chase should also have taken proactive steps to identify and help prevent transactions – particularly unusual or uncharacteristic transactions – that could involve fraud or be the result of a scam. However, there is a balance to be struck: banks had (and have) obligations to be alert to fraud and scams and to act in their customers' best interests, but they can't reasonably be involved in every transaction

Taking into account the law, regulator's rules and guidance, relevant codes of practice and what I consider having been good industry practice at the time, I consider Chase should fairly and reasonably:

- Have been monitoring accounts and any payments made or received to counter various risks, including anti-money laundering, countering the financing of terrorism, and 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 banks 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, before processing a payment, or in some cases declined to make a payment altogether, to help protect customers from the possibility of financial harm from fraud.
- 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.

In this case, I need to decide whether Chase acted fairly and reasonably in its dealings with Mr B when he authorised payments from her account or whether it could and should have done more before processing them.

Chase has shown that it intervened on each payment Mr B made as part of the scam and spoke with him over the phone before each payment left his account. It has provided copies of the calls which I have listened to.

Having listened to the calls that took place, I don't think that Chase went as far as it should have during these interactions. The initial payment Mr B made was for a very high amount and was going to crypto – which Chase should know carries a high risk of fraud. While it did ask him on several of the calls about how he came across the investment opportunity, and Mr B said he had been told about it by a friend, I don't think Chase did enough to explore this further during any of the calls but accepted this without any further questions. And while it did say that crypto carries a high risk due to its prevalence in scams, it did not explain how these scams typically work.

Due to the amounts Mr B was transferring to crypto, I would have expected Chase to ask Mr B more about the friend he said had told him about crypto – and go on to explain the common features of crypto scams, which it would have more knowledge of than the average consumer.

While like out Investigator, I wouldn't say there were any definitive questions I would have expected it to have asked, I think that this should have included the following

- How Mr B knew his friend, and what had he been told about the investment?
- How was contact made with the company? What checks had he undertaken to satisfy himself that the opportunity was genuine?
- What did Mr B understand about how the investment worked, and could he explain this to Chase?
- What is the rate of return?
- Why was Mr B starting with such a high value investment?
- What was the purpose of opening the account with Chase? And why did he not make the payments directly from his account with H?
- When he made his payments, was he planning on moving the money elsewhere?

I also think that Chase should then have gone on to explain the common features of crypto scams – including the following

- Crypto is often used by scammers to defraud individuals as the money is not traceable
- The common use of screen sharing applications such as AnyDesk
- The use of fake platforms manipulated by scammers that supposedly show the investment
- The use of multi-account transfers by scammers
- Highlighting that being told to lie or withhold information is a clear sign of a scam
- Fake endorsements by well-known individuals.

While Mr B did say that he was introduced to crypto by a friend – I don't think this necessarily means that Mr B would have been able to answer any follow up questions to a satisfactory level for Chase to have determined that he wasn't at risk of financial harm – or that he would have ignored a warning about crypto investment scams and how they work – especially as it would have mirrored his own experience.

So, I don’t think that Chase did enough to prevent Mr B’s loss from the initial payment.

That said, I also think that Mr B should share responsibility for his loss on a 50% basis as I don’t think that he was a careful as he should have been with his money. Mr B has already agreed to our Investigators outcome, so I won’t go into too much detail here, but in summary I agree with our Investigator that he didn’t do enough research into what he was doing, especially given the amounts of money he was investing. He also wasn’t provided with any paperwork in relation to the investment and didn’t sign any documents showing what had been agreed. I also think that the requests to pay further money when making a withdrawal should have been a red flag to him.

Putting things right

J.P. Morgan Europe Limited trading as ‘Chase’ should refund Mr B 50% of his loss from the initial payment.

On top of this, it should also pay Mr B 8% simple interest on this amount from the date the payments were made until settlement, less any lawfully deductible tax.

My final decision

I uphold this complaint in part. J.P. Morgan Europe Limited trading as ‘Chase’ should put things right as set out above.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mr B to accept or reject my decision before 6 February 2025.

Claire Pugh
Ombudsman