

## **The complaint**

Mr D complains that J. P. Morgan Europe Limited (trading as Chase) declined to refund money he lost to a scam.

Mr D is represented in this complaint by a solicitor. But for simplicity I will refer to Mr D throughout this decision, even when referencing what his representatives have said on his behalf.

## **What happened**

In July 2023 Mr D was discussing investment opportunities with a work colleague. This colleague recommended a cryptocurrency investment platform – which I'll call 'F' – and sent Mr D a link to a social media account for F. Mr F subsequently made contact with an individual working for F who told Mr D they would help him with his investments, they said he could receive returns of 7.6% on his investment, and helped him to open a trading account on the platform using remote access software.

Mr D agreed to go ahead with the investment, and over the next two months invested almost £17,000 via card payments and transfers from an account he held with an e-money institution. He was then encouraged to open an account with Chase, and made further transfers of over £35,000 from that account. Unfortunately, and unknown to Mr D at the time, the investment was not legitimate, he was sending his money to a scammer.

Mr D initially thought he was making good profits, and the trading platform appeared to support this. But when the scammers told him the markets had crashed, and that he had lost all he had made, Mr D then felt he needed to continue to invest to make his money back. Ultimately, when the scammers started to suggest Mr D take out loans to fund his investment, and would not provide any contract regarding his withdrawal rights, Mr D realised he had been scammed and reported the matter to Chase.

Chase looked into what had happened, but declined to refund any of Mr D's loss. It said it had provided appropriate warnings about the payments he was making, and that Mr D had nonetheless gone ahead with the payments.

Mr D didn't feel this was fair, so he referred his complaint to our service.

One of our Investigators looked into what had happened. They considered that Mr D was entitled to a refund of the payments he had made given the terms of his Chase account. They also recommended that Chase pay interest from the date of each payment to the date of settlement, as they considered that Chase could have done more to prevent the payments from being made.

Mr D accepted the investigator's findings, but Chase did not. It maintains that it intervened appropriately in the payments. As we couldn't resolve the matter informally, the case has been passed to me for 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've reached the same conclusion as our Investigator and for largely the same reasons.

I'm satisfied Mr D 'authorised' the disputed 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 Mr D is presumed liable for the loss in the first instance.

There's no dispute that this was a scam, although Mr D didn't intend his money to go to scammers, he did authorise the disputed payments. And Chase 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.

The payments here did flag as potentially suspicious and there were phone calls during which Chase discussed the payments with Mr D. Unfortunately, there were key facts about the circumstances of the investment which didn't come to light during the calls and this meant Chase didn't detect that the payments were being made to a scam.

However, the terms and conditions of Mr D's Chase account state the following:

*"You'll generally get a refund for a payment if you have any of the problems set out below...*

*A payment where you're tricked into sending money to a fraudster... This is where you:*

- either intended to send money to a particular person, but you were tricked into sending money to someone else; or*
- sent money to someone for what you thought was a genuine purpose, but which was actually fraudulent...*

*If, taking everything into account when the payment was made, we find you should've known you were being tricked into sending money to a fraudster you won't get a refund."*

So, I've considered whether Mr D should have known he was being tricked when he made the payments. And, while I accept Mr D was given some scam advice when he discussed the payments with Chase, I don't accept the warnings were robust or effective enough to have brought to his attention the fact he was being scammed. He also didn't ignore advice to do more checks before going ahead with the payments, he was asked to confirm that he'd done due diligence, which he thought he had given the volume of documentation he had received from the scammer, and he'd not found anything to cause him concern. And by the time of these payments Mr D appears to have already seen some returns on his investment, which he says he could monitor via a professional looking trading platform. So, I don't consider that anything Mr D was told by Chase, or that he had seen in his dealings with the scammers, should have put him on notice that he might be being scammed.

So, having considered all of the circumstances, I don't think it was unreasonable that Mr D failed to identify any warning signs that he was being scammed and I don't think the circumstances were such that he should've known he was being tricked. Because of this, I agree with our investigator that Chase should refund the payments Mr D lost to the scam.

I also agree with our Investigator that Chase missed an opportunity to help expose this scam at the time of the first payment Mr D made from his Chase account. This was a significant payment, to a recipient that was identifiably associated with cryptocurrency. And while Chase did take steps to question Mr D about this payment, I don't consider that it went far enough. Chase didn't ask if anyone was guiding Mr D in how to invest, whether he'd downloaded any remote access software, or ask what he was investing in. And given the value of the payments that Mr D was making, I think this level of questioning would have been proportionate to the risk the payments presented. And bearing in mind that by this stage there was a warning recorded on the Financial Conduct Authority website about the business Mr D thought he was using for investment advice and trading, I think that questioning him about who he was investing with would likely have brought the scam to light.

With this in mind I consider that it is reasonable for Chase to pay 8% simple interest per annum from the date of each scam payment to the date of settlement.

### **Putting things right**

To resolve this complaint Chase should:

- refund to Mr D the payments he made to the scam;
- pay 8% simple interest per annum on that refund from the date of each payment to the date of settlement.

### **My final decision**

I uphold this complaint. J. P. Morgan Europe Limited (trading as Chase) should now put things right in the way I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 23 October 2024.

Sophie Mitchell  
**Ombudsman**