

The complaint

Mr F complains that Revolut Ltd ('Revolut') won't refund the money he lost to an investment scam.

He's being represented. To keep things simple, I'll refer to Mr F 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 F says:

- In March 2023, he saw an online advert for a company (I'll call 'S') seemingly offering investment opportunities in cryptocurrency but which later turned out to be a scam. He was called by representatives claiming to be 'traders' at S and was led to believe they'd be able to make very good returns on his behalf. He was looking to generate an income of a few thousand pounds a year, but the scammers indicated they could generate a lot more than this.
- He began to develop what he thought was a positive working relationship with the scammers and believed he was dealing with knowledgeable professionals. To make the scam more convincing, he was given 'contracts', was able to make a small withdrawal initially; and was given access to what looked like a genuine 'trading platform'.
- He was guided by the scammers to set up a cryptocurrency wallet (with a legitimate cryptocurrency platform) to facilitate payments. A new Revolut account was also opened, in April 2023, as part of the process. And, on the scammers' advice, he went on to make a series of payments totalling over £15,000 between 17 April and 9 June 2023 from his Revolut account to his cryptocurrency wallet. The cryptocurrency was then sent on and lost to the scam. He realised he'd been scammed when he asked to make a withdrawal and was instead told he needed to pay 'fees' for that to happen.

Below are the transactions I've considered as part of this complaint. To note, part of the scam was funded by a loan of £8,500 Mr F took out in June 2023 with a separate firm (I'll call 'T'). This loan was repaid in full in July 2023.

	Date	Time	Method	Payee	Amount
1	17-Apr-23	19:28	Card payment	Binance	€1,693.05
	24-Apr-23		Credit	Mr F	€43.39
2	09-May-23	18:01	Card payment	Binance	€1,716.43
3	29-May-23	16:18	Card payment	Binance	€3,443.25
4	31-May-23	17:54	Card payment	Binance	€1,735.95
5	09-Jun-23	16:32	Card payment	Binance	€5,000
6	09-Jun-23	16:35	Card payment	Binance	€4,028.01

The scam was reported to Revolut in July 2023. A complaint was raised and referred to our Service. Our Investigator considered it and upheld it. In summary, the Investigator thought there was enough about Payment 3 (as above) for Revolut to have intervened and provided Mr F with a tailored warning covering off the key features of cryptocurrency investment scams – and that, if it had provided such a warning, Mr F's further losses would have been likely prevented. He said Revolut should therefore refund Payments 3-6 plus interest, subject to a 50% deduction in recognition of Mr F's contributory negligence towards his loss.

Mr F accepted the Investigator's outcome. Revolut didn't and made further representations, in summary:

- Revolut is bound by contract, applicable regulations, and the common law to execute valid payment instructions. The transactions were authorised by Mr F and, under the relevant regulations, it must process the payments promptly.
- It recognises its obligations to put adequate procedures to counter the risk that it may be used to further financial crime (and has such systems in place) but that duty doesn't go as far as requiring Revolut to detect and prevent all fraud, particularly in the face of authorised customer instructions.
- The duty to execute valid payment instructions doesn't require Revolut to assess the commercial wisdom or potential loss of a proposed transaction. This was confirmed by the Supreme Court in the case of *Philipp v Barclays Bank UK plc [2023] UKSC 25*. Where the validity of the instruction is not in doubt *"no enquiries are needed to clarify or verify what the bank must do. The duty is to execute the instruction and any refusal or failure to do so will prima facie be a breach of duty by the bank."*
- The payments from Mr F's Revolut account didn't fit either the definition of an APP fraud or fall under the Lending Standards Board Contingent Reimbursement Model ('CRM Code') – of which it is not a signatory. It shouldn't be required to refund 'self-to-self' transactions, where it is only an intermediate link in a chain of transactions. The scam didn't occur on Revolut's platform.
- It shouldn't be responsible for the losses simply because the third party sits outside the Financial Ombudsman Service's jurisdiction, either because the firm isn't authorised, or the product isn't regulated. There's no rational explanation as to why the Financial Ombudsman Service considers Revolut should be responsible for all, most, or 50% of a customer's loss in such scenarios where the relevant transaction is 'self-to-self'.
- Payment 3 wasn't concerning to Revolut. It was not significantly higher in value than the previous payments and by that point the payment was in line with typical spending. It's also irrational to rely on a hypothetical warning stopping Mr F. It cannot be certain any warnings would have stopped him. And the fact Mr F gave a misleading purpose for his loan application to T shows his willingness to deceive financial institutions, demonstrating the requisite degree of carelessness to potentially absolve Revolut of any liability.

As the matter couldn't be resolved informally, it's 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, I've decided to uphold it for the same reasons as the Investigator.

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 (the 2017 regulations) and the terms and conditions of the customer's account. And, as the Supreme Court reiterated in *Philipp v Barclays Bank UK PLC*, subject to some limited exceptions, banks have a contractual duty to make payments in compliance with the customer's instructions.

In that case, the Supreme Court considered the nature and extent of the contractual duties owed by banks to their customers when making payments. Among other things, it said, in summary:

- The starting position is that it is an implied term of any current account contract that, where a customer has authorised and instructed a bank to make a payment, it must carry out the instruction promptly. It is not for the bank to concern itself with the wisdom or risk of its customer's payment decisions.
- At paragraph 114 of the judgment the court noted that express terms of the current account contract may modify or alter that position. In *Philipp*, the contract permitted Barclays not to follow its consumer's instructions where it reasonably believed the payment instruction was the result of APP fraud; but the court said having the right to decline to carry out an instruction was not the same as being under a legal duty to do so.

In this case, the terms of Revolut's contract with Mr F modified the starting position described in *Philipp* by (among other things) expressly requiring Revolut to refuse or delay a payment "*if legal or regulatory requirements prevent us from making the payment or mean that we need to carry out further checks*" (section 20).

So Revolut was required by the terms of its contract with Mr F to refuse payments in certain circumstances, including to comply with regulatory requirements such as the Financial Conduct Authority's (FCA) Principle for Businesses 6, which required financial services firms to pay due regard to the interests of their customers and treat them fairly.

I'm satisfied that paying due regard to the interests of its customers and treating them fairly meant Revolut should have been on the look-out for the possibility of fraud and refused card payments in some circumstances to carry out further checks.

In practice Revolut did in some instances refuse or delay payments at the time where it suspected its customer might be at risk of falling victim to a scam.

I must also take into account that the basis on which I'm required to decide complaints is broader than the simple application of contractual terms and the regulatory requirements referenced in those contractual terms. I must determine the complaint by reference to what is, in my opinion, fair and reasonable in all the circumstances of the case (DISP 3.6.1R) taking into account the considerations set out at DISP 3.6.4R.

Whilst the relevant regulations and law (including the law of contract) are both things I must take into account in deciding this complaint, I'm also obliged to take into account regulator's guidance and standards, relevant codes of practice and, where appropriate, what I consider to have been good industry practice at the relevant time: see DISP 3.6.4R. So, in addition to taking into account the legal position created by Revolut's standard contractual terms, I also must have regard to these other matters in reaching my decision.

Looking at what is fair and reasonable, on the basis set out at DISP 3.6.4R, I consider that Revolut should, at the time of these payments, have been on the look-out for the possibility of fraud and have taken additional steps, or made additional checks, before processing payments in some circumstances.

In reaching the view that Revolut should have been on the look-out for the possibility of fraud and have taken additional steps, or made additional checks, before processing payments in some circumstances, I'm mindful that in practice all banks and EMI's like Revolut did in fact seek to take those steps, often by:

- using algorithms to identify transactions presenting an increased risk of fraud¹;
- requiring consumers to provide additional information about the purpose of transactions during the payment authorisation process;
- using the confirmation of payee system for authorised push payments;
- providing increasingly tailored and specific automated warnings, or in some circumstances human intervention, when an increased risk of fraud is identified.

For example, it's my understanding that, in April 2023, Revolut, whereby if it identified a scam risk associated with a card payment through its automated systems, could (and sometimes did) initially decline to make that payment, in order to ask some additional questions (for example, through its *in-app* chat).

I'm also mindful that:

- EMIs like Revolut are required to conduct their business with “*due skill, care and diligence*” (FCA Principle for Businesses 2), “*integrity*” (FCA Principle for Businesses 1) and a firm “*must take reasonable care to organise and control its affairs responsibly and effectively, with adequate risk management systems*” (FCA Principle for Businesses 3)².
- Over the years, the FCA, and its predecessor the FSA, have published a series of publications setting out non-exhaustive examples of good and poor practice found when reviewing measures taken by firms to counter financial crime, including various iterations of the “*Financial crime: a guide for firms*”.
- Regulated firms are required to comply with legal and regulatory anti-money laundering and countering the financing of terrorism requirements. Those requirements include maintaining proportionate and risk-sensitive policies and procedures to identify, assess and manage money laundering risk – for example through customer due-diligence measures and the ongoing monitoring of the business relationship (including through the scrutiny of transactions undertaken throughout the course of the relationship). I don't suggest Revolut ought to have had concerns about money laundering or financing terrorism here. I nevertheless consider these requirements relevant to the consideration of Revolut's obligation to monitor its customer's accounts and scrutinise transactions.

¹ For example, Revolut's website explains it launched an automated anti-fraud system in August 2018:

https://www.revolut.com/news/revolut_unveils_new_fleet_of_machine_learning_technology_that_has_seen_a_fourfold_reduction_in_card_fraud_and_had_offers_from_banks/

² Since 31 July 2023 under the FCA's new Consumer Duty package of measures, banks and other regulated firms must act to deliver good outcomes for customers (Principle 12), but the circumstances of this complaint pre-date the Consumer Duty and so it does not apply.

- The October 2017, BSI Code³, which a number of banks and trade associations were involved in the development of, recommended firms look to identify and help prevent transactions – particularly unusual or out of character transactions – that could involve fraud or be the result of a scam. Not all firms signed the BSI Code (Revolut was not a signatory), but the standards and expectations it referred to represent a fair articulation of what was, in my opinion, already good industry practice in October 2017 particularly around fraud prevention, and it remains a starting point for what I consider to be the minimum standards of good industry practice now (regardless of the fact the BSI was withdrawn in 2022).
- Revolut should also have been aware of the increase in multi-stage fraud, particularly involving cryptocurrency when considering the scams that its customers might become victim to. Multi-stage fraud involves money passing through more than one account under the consumer's control before being sent to a fraudster. Our service has seen a significant increase in this type of fraud over the past few years – particularly where the immediate destination of funds is a cryptocurrency wallet held in the consumer's own name. And, increasingly, we have seen the use of an EMI (like Revolut) as an intermediate step between a high street bank account and cryptocurrency wallet.
- The main card networks, Visa and Mastercard, don't allow for a delay between receipt of a payment instruction and its acceptance: the card issuer has to choose straight away whether to accept or refuse the payment. They also place certain restrictions on their card issuers' right to decline payment instructions. The essential effect of these restrictions is to prevent indiscriminate refusal of whole classes of transaction, such as by location. The network rules did not, however, prevent card issuers from declining particular payment instructions from a customer, based on a perceived risk of fraud that arose from that customer's pattern of usage. So it was open to Revolut to decline card payments where it suspected fraud, as indeed Revolut does in practice (see above).

Overall, 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 that, when these payments were made, 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); 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 and 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.

³ BSI: PAS 17271: 2017" Protecting customers from financial harm as result of fraud or financial abuse"

Whilst I'm required to take into account the matters set out at DISP 3.6.4R when deciding what is fair and reasonable, I'm satisfied that to comply with the regulatory requirements in place at the time of these payment, Revolut should in any event have taken these steps.

Should Revolut have recognised that Mr F was at risk of financial harm from fraud?

It isn't in dispute Mr F was the victim of a scam, nor that he authorised the card payments to his cryptocurrency platform (from where his funds were subsequently sent to the scammers).

I'm aware that cryptocurrency platforms generally stipulate that the card used to purchase cryptocurrency on their platform must be held in the name of the account holder, as must the account used to receive cash payments from the exchange. Revolut would likely have been aware of this fact too. So, it could have reasonably assumed that most of the disputed payments would be credited to a cryptocurrency wallet held in Mr F's name.

But, by April 2023, when the disputed payments began, firms like Revolut had been aware of the risk of multi-stage scams involving cryptocurrency for some time.

Scams involving cryptocurrency have increased over time. The FCA and Action Fraud published warnings about cryptocurrency scams in mid-2018 and figures published by the latter show that losses suffered to cryptocurrency scams have continued to increase since. They reached record levels in 2022. During that time, cryptocurrency was typically allowed to be purchased through many high street banks with few restrictions.

By the end of 2022, however, many of the high street banks had taken steps to either limit their customer's ability to purchase cryptocurrency using their bank accounts or increase friction in relation to cryptocurrency related payments, owing to the elevated risk associated with such transactions. And, by April 2023, further restrictions were in place. This left a smaller number of payment service providers, including Revolut, that allowed customers to use their accounts to purchase cryptocurrency with few restrictions. These restrictions – and the reasons for them – would have been well known across the industry.

I recognise that, as a result of the actions of other payment service providers, many customers who wish to purchase cryptocurrency for legitimate purposes will be more likely to use the services of an EMI, such as Revolut. I'm also mindful a significant majority of cryptocurrency purchases made using a Revolut account will be legitimate and not related to any kind of fraud (as Revolut has told our Service). However, our Service has also seen numerous examples of customers being directed by fraudsters to use Revolut accounts in order to facilitate the movement of a fraud victim's money from their high street bank to a cryptocurrency provider, a fact Revolut is aware of.

So, taking into account all of the above, I'm satisfied that by the end of 2022, prior to Mr F's payments from April 2023, Revolut ought, fairly and reasonably, to have recognised its customers could be at an increased risk of fraud when using its services to purchase cryptocurrency, notwithstanding that the payment would often be made to a cryptocurrency wallet in the customer's own name. And, considering all of the above, and in light of the increase in multi-stage fraud, particularly involving cryptocurrency, I don't think the fact that the disputed payments in this case were going to an account in Mr F's own name should have led Revolut to believe there wasn't a risk of fraud.

I've therefore gone on to consider, taking account of what Revolut knew about the payments, at what point, if any, it ought to have identified Mr F might be at a heightened risk of fraud that merited its intervention.

Like the investigator, I don't think there was enough about Payments 1-2 that ought to have caused Revolut concern to the extent that it should have intervened on suspicion that Mr F was at a heightened risk of fraud – considering also the payment amounts and the fact that the account was newly opened so there was limited material account history on which to assess the level of risk presented by those payments.

By Payment 3, however, a pattern had started to emerge. This payment was higher than earlier payments and marked a notable increase in the daily spend. In my view, considering these factors and what Revolut knew about the destination of Payment 3, there was enough for it to have been concerned Mr F might be at a heightened risk of financial harm from fraud. And, in line with good industry practice and regulatory requirements, I consider it's fair and reasonable to conclude Revolut should have warned Mr F before Payment 3 went ahead. I also note Mr F had apparently selected '*transfers*' as the account opening purpose.

What did Revolut do to warn Mr F?

Revolut has said that the payments were authorised, the scam was not carried out in the 'heat of the moment', and that the payments were not 'out of character'. It hasn't suggested Mr F was provided with relevant scam warnings on any of the payments.

What kind of warning should Revolut have provided?

I've thought carefully about what a proportionate warning in light of the risk presented by Payment 3 would have been in the circumstances. In doing so, I've taken into account that many payments that look very similar to this one will be entirely genuine. I've given due consideration to Revolut's duty to make payments promptly, as well as what I consider to have been good industry practice at the time the payment was made.

Taking that into account, I think Revolut ought to, when Mr F attempted to make Payment 3, knowing (or strongly suspecting) that the payment was going to a cryptocurrency provider, have provided a written warning that was specifically about the risk of cryptocurrency scams, given how prevalent they had become by the end of 2022. In doing so, I recognise it would be difficult for such a warning to cover off every permutation and variation of cryptocurrency scam without significantly losing impact.

So, at that point in time, I think such a warning should have addressed the key risks and features of the most common cryptocurrency scams – *cryptocurrency investment scams*.

The warning Revolut ought, fairly and reasonably, to have provided should have highlighted, in clear and understandable terms, the key features of common cryptocurrency investment scams – for example, referring to an advertisement online or social media; promotions by a celebrity or public figure; the involvement of an 'account manager', 'broker' or 'trader', acting on their behalf; the use of remote access software; a small deposit quickly increasing in value; the prospect of unrealistic returns.

I again realise a warning of that kind could not have covered off all scenarios. But I think it would have been a proportionate way for Revolut to minimise the risk of financial harm to Mr F by covering the key features of scams affecting many customers while not imposing a level of friction disproportionate to the level of risk the payment presented.

If Revolut had provided a warning of the type described, would that have prevented the losses Mr F suffered from Payment 3?

I've thought carefully about whether a specific warning covering off the key features of cryptocurrency investment scams would have likely prevented Mr F's further losses in this case – and, on the balance of probabilities, I think it would have.

I think there were enough of the key hallmarks of common cryptocurrency investment scams present in the circumstances surrounding Mr F's payments, such as finding the 'investment' through an advert online; being assisted by a 'trader'; and 'investing' through an unregulated 'broker', that would likely have resonated with Mr F at the time. I've not found anything in the messages Mr F exchanged with the scammers to suggest he was asked, or agreed to, disregard any warning from Revolut, or any indication he expressed mistrust of Revolut or financial firms in general. And, following our enquiries, I've seen no evidence to show Mr F was given (or ignored) warnings from the firm from which the money used to fund the scam originated.

I'm mindful of Mr F's comments he'd developed a level of rapport with the scammers and believed he was dealing with professional individuals. But I don't consider the circumstances (or the relationship) were such that Revolut would have likely found it difficult to break the 'spell' through an effective warning. I note, for example, that when Mr F was asked by the scammers to pay 'fees' in order to withdraw funds, he was quick to suspect something wasn't quite right, stopped making payments, and the scam was unravelled. And while I've thought very carefully about the significance of Mr F not providing T with the true 'loan purpose', I don't think this alone is enough to say it's more likely than not he'd have ignored an impactful warning from Revolut that was relevant to his situation at the time.

In other words, on balance, I'm not persuaded Mr F was so taken in by the scammers to the extent he wouldn't have paid attention to a warning from Revolut. And, again on balance, if Revolut had shown Mr F an impactful warning (like the one I've described) that highlighted the key warning signs of a cryptocurrency scam and how he could protect himself from the risk of fraud, I believe it would have resonated with him. He could, for example, have paused and made further enquiries into cryptocurrency scams and could have looked more closely into S and whether it was regulated in the UK or abroad. Overall, I think it's likely a timely warning from Revolut would have caused Mr F to stop and prevented his further losses.

Is it fair and reasonable for Revolut to be held responsible for Mr F's losses?

In reaching my decision about what's fair and reasonable, I've taken into account that Mr F first moved money from his account with another bank, to his account with Revolut, and then to a cryptocurrency platform in his name before the funds were lost to the scam.

But, as I've set out in some detail above, I think Revolut still should have recognised Mr F might have been at risk of fraud when he made Payment 3 and that in those circumstances it should have declined the payment and provided an impactful warning. If it had taken those steps, I think it would have prevented Mr F's further losses. The fact that the money used to fund the scam came from elsewhere and/or wasn't lost at the point it was transferred to Mr F's own account does not alter that fact. And I think Revolut can fairly be held responsible for Mr F's loss in such circumstances. I don't think there is any point of law or principle that says a complaint should only be considered against either the firm that is the origin of the funds or the point of loss.

I've also considered that Mr F has only complained against Revolut. I accept it's *possible* other firms might also have missed the opportunity to intervene or failed to act fairly and reasonably in some other way, and Mr F could instead, or in addition, have sought to complain against those firms. But Mr F has not chosen to do that and, ultimately, I can't compel him to. In those circumstances, I can only make an award against Revolut.

I'm also not persuaded it'd be fair to reduce Mr F's compensation in circumstances where he's only complained about one respondent from which he's entitled to recover his losses in full; hasn't complained against the other firm (and so is unlikely to recover any amounts apportioned to that firm); and where it's appropriate to hold a business (such as Revolut) responsible that could have prevented the loss and is responsible for failing to do so. That isn't, to my mind, wrong in law or irrational but reflects the facts of the case and my view of the fair and reasonable position.

Ultimately, I must consider the complaint that has been referred to me (not those which haven't been or couldn't be referred to me) and, for the reasons I've set out above, I'm satisfied it would be fair to hold Revolut responsible for Mr F's losses from Payment 3 (subject to a deduction for Mr F's own contribution towards his losses).

For completeness, I realise Mr F's card payments didn't fall within the scope of the CRM code and I don't seek to treat Revolut as if it were a signatory either. I note the comments that the Payment Services Regulator's mandatory reimbursement scheme wouldn't require Revolut to reimburse Mr F here. I don't consider either of these things mean I can't consider whether Revolut failed to act fairly and reasonably in this case. I've given my reasons for finding Revolut should have done more to protect Mr F from the risk of fraud and that, if it had, it's likely he wouldn't have lost more money. I'm satisfied it'd be fair to hold Revolut responsible for part of Mr F's losses in those circumstances.

Should Mr F bear any responsibility for his losses?

In considering this point, I've taken into account what the law says about contributory negligence as well as what's fair and reasonable in the circumstances of this complaint.

As I referred to above, the Investigator upheld Mr F's complaint and thought that Revolut should refund him from (and including) Payment 3. He also concluded the refund payable by Revolut can be reduced by 50%. This was on the basis that part of the scam was funded by a loan, Mr F had misled T as to the purpose of the loan, and it's unlikely Mr F would have had the loan funds if the true loan purpose had been disclosed to T.

Mr F accepted that outcome. I'll nevertheless add here that I agree with the position that Mr F played a role in what happened such that he should reasonably be held partly responsible for his losses. In reaching this view, I'm mindful T has told our Service that it would have likely declined the loan if it had been given any indication Mr F might be falling for a potential scam. But I'm not persuaded by Revolut's suggestion that the circumstances surrounding Mr F's loan application indicate a degree of carelessness or recklessness on Mr F's part such that Revolut should be absolved of any liability for Mr F's losses. As I've set out above, I'm satisfied Revolut ought to have done more to protect Mr F from the risk of fraud and that, if it had, some of his losses would have been prevented. So, weighing up the role both parties played in what happened, I think liability for Mr F's losses should fairly and reasonably be shared equally and the refund payable by Revolut reduced by 50%.

Could Revolut have done anything to recover Mr F's money?

All the disputed payments were card payments to Mr F's cryptocurrency provider. Mr F then sent and lost that cryptocurrency to the scammers. I'm satisfied there was little Revolut could have done to recover those funds. In addition, I don't consider a chargeback would have had any prospect of success given there's no dispute Mr F's cryptocurrency provider, provided him with the cryptocurrency, which he subsequently sent and lost to the scammers.

Putting things right

For the reasons above, I uphold this complaint and direct Revolut Ltd to:

- Refund the payments Mr F lost to the scam from (and including) Payment 3 onwards.
- Reduce this amount by 50% in recognition of Mr F's contributory negligence.
- Pay 8% simple interest per year on this amount, calculated from the date of the payments to the date of settlement, minus any tax lawfully deductible.

My final decision

My final decision is that I uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr F to accept or reject my decision before 17 March 2025.

Thomas Cardia
Ombudsman