

The complaint

Mrs A complains Revolut Ltd won't refund the £15,000 she lost as part of a crypto investment scam.

Mrs A is being supported in making her complaint by a representative, but for ease, I'll refer to Mrs A throughout this decision.

What happened

In March 2023 Mrs A says she saw an advert featuring two well-known TV celebrities about investing in crypto. After accessing the online link, Mrs A was contacted by a representative of an investment company (which I'll refer to here as 'B'). Mrs A decided to invest and paid an initial fee of £250 from another bank account. She was then contacted by an individual who said he would act as her account manager (the scammer).

Mrs A says that the scammer told her she could withdraw her funds at any time but was advised to leave it for seven weeks to allow the investment to mature. The scammer also told Mrs A he would take 5% commission – which she says she thought was fair.

On 22 March 2023 Mrs A opened an account with Revolut and an account with 'B'. She also opened an account with a legitimate crypto exchange (which I'll refer to here as 'M').

Mrs A made the following card payments via 'M' as part of the investment:

Date	Amount
27 March 2023	£5,000
3 April 2023	£5,000
24 April 2023	£5,000
	£15,000

None of the payments flagged with Revolut as suspicious. It did initially decline the 24 April 2023 £5,000 payment, but this was due to an input error, not because of fraud concerns.

Mrs A had access to her account with 'B' and could see her investment grow in value. After the seven weeks had passed, she wanted to make a withdrawal, at which point she was asked to pay a fee of around £4,000. Mrs A said she refused to pay the fee and realised she'd been the victim of a scam.

Mrs A reported the matter to Revolut on 3 May 2023 and asked for help recovering the funds. Revolut said Mrs A had authorised the payments and there were no chargeback rights for the card payments. It also said there was no account history, given this was a newly opened account; for them to know whether this was unusual account activity for Mrs A. And that Mrs A had a responsibility to have carried out due diligence checks before choosing to invest.

Unhappy with Revolut's response, Mrs A referred her complaint to the Financial Ombudsman. She wanted her money returned, together with 8% interest and £300 compensation.

One of our Investigators considered the complaint but didn't uphold it. In summary, she said Revolut should've intervened in the first payment by providing Mrs A with a tailored written

warning about the risks associated with crypto investment scams. But she didn't think this would've resonated enough with Mrs A to have prevented her loss.

Our Investigator also thought there was nothing Revolut could do to recover the lost funds given Mrs A had purchased crypto from 'M' – albeit as part of a scam. And she didn't think there was any justification for Revolut to provide Mrs A with compensation.

Mrs A disagreed and asked for an Ombudsman's final decision. She thought Revolut should've flagged the payments as suspicious given this was a newly opened account with high value deposits and withdrawals being made. Mrs A said Revolut should've done more to establish the circumstances of the first payment, and that if it had provided a tailored written warning about the risks of crypto investments; she would've realised this was a scam and her loss would've been prevented.

In terms of recovering her funds, Mrs A questioned whether she had purchased crypto, or if this was just what she'd been led to believe as part of the scam.

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'll explain why.

But first, I would like to say at the outset that if there is a submission I've not addressed; it isn't because I have ignored the point. It's simply because my findings focus on what I consider to be the central issues in this complaint – that being whether Revolut was responsible for Mrs A's loss.

As a starting point, Mrs A doesn't dispute that the payments were made in line with her instructions to Revolut; and Revolut has referred to evidence which further supports that she made the payments. So, although she didn't intend the money to go to the scammer and believed that her money was going to a legitimate investment, under the PSRs and the terms of her account, Mrs A is presumed liable for her loss in the first instance.

In broad terms, the starting position in 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 PSRs and the terms and conditions of the customer's account.

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 March 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);
- 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.

The question then arises whether Revolut ought reasonably to have held such suspicions or concerns in relation to Mrs A's payments (individually or collectively) — and if so, what might have been expected from a proportionate intervention.

So, taking all of this into account, I need to decide if Revolut acted fairly and reasonably in its dealings with Mrs A when she made the payments. Specifically, whether it should've done more than it did before processing the payments — and if it had, would that have made a difference. I also need to decide if Revolut could've reasonably recovered the lost funds.

Should Revolut have intervened in the payments?

When considering this point, I've kept in mind that EMIs process high volumes of transactions each day, and that there is a balance for Revolut to find between allowing customers to be able to use their accounts and questioning transactions to confirm they're legitimate.

I understand that Mrs A opened the account with Revolut on 22 March 2023, on the instruction of the scammer to enable her to pay towards the investment. As such, Revolut did not know her typical spending patterns. But that doesn't mean it wasn't able to recognise suspicious activity — only that the information it had on which to make that assessment was limited.

I've thought about what Revolut did know about Mrs A when she came to make the first payment. That information was limited. Other than the payment amount and destination, it knew her personal details and that the account had been recently opened. When opening the account, Mrs A had stated her account opening purpose was '*spending abroad*'.

But it would've been clear to Revolut that the first payment was being made to a crypto exchange ('M') and was contrary to the account opening reason. The amount (£5,000) was also relatively high in value and was made shortly after a deposit into the newly opened account. In circumstances such as this, I think that a proportionate response to that risk would've been for Revolut to have provided Mrs A with a tailored written warning specific to crypto investments scams before processing the first £5,000 payment. But, had it done so, I'm not persuaded that would've prevented Mrs A's loss. I'll explain why.

Would intervention by Revolut have prevented Mrs A's loss?

For me to find it fair and reasonable that Revolut should refund the payments to Mrs A, it requires more than a finding that it should've done more to intervene when the payments were made. I would need to find not only that Revolut should've intervened where it ought reasonably to have done so — but crucially, I'd need to find that but for this failure the subsequent loss would've been avoided.

That latter element concerns causation. A proportionate intervention will not always result in the prevention of a payment. And if I find it more likely than not that such a proportionate intervention by Revolut wouldn't have likely revealed the payment(s) were part of a fraud or scam, then I couldn't fairly hold it liable for not having prevented them from being made.

I've thought very carefully about this point and taken account of all the wider surrounding circumstances to decide, on balance, what is most likely to have happened if Revolut had provided Mrs A with a tailored written warning specific to crypto investment scams before processing the first payment. And on doing so, I'm not persuaded that this would've made a difference and prevented Mrs A's loss.

Firstly, it's not for me to dictate what Revolut's tailored written warning should've looked like — but I'd expect it to include information specific to crypto investment scams. This could include things like; how the investment came about, doing research into the investment company, whether there was pressure to invest, whether someone was guiding the

customer, and whether it had been possible to make withdrawals. I've thought about these points in turn and how they are likely to have resonated with Mrs A.

Mrs A wasn't contacted about the investment by chance. She initiated contact with 'B' having seen endorsements online. It was her choice to invest; and from the evidence I've seen, she wasn't pressured into doing so. I've also seen evidence to show that Mrs A, at the time of the scam, held an investment account with a legitimate investment company. This suggests to me that Mrs A had some knowledge of the investment process.

Mrs A had time to think about the decision to invest, and to carry out any checks before making the first payment, or if she'd been prompted to do so by Revolut by way of the tailored written warning. But I think it's unlikely that those checks would've given Revolut, or Mrs A, any reasonable cause for concern. From what I can see, there were no regulatory or other online warnings about 'B' prior to her making the first payment to indicate it was anything other than genuine. Furthermore, Mrs A has said she was convinced by the celebrity endorsement; and on checking 'B's website – she was satisfied it looked *'very credible'*.

There was a third party guiding Mrs A (the scammer). But I can see from the messages between Mrs A and the scammer that she had complete trust in him – seeking advice and reassurance to fully understand how the investment worked. I can't see that Mrs A ever questioned the legitimacy of the investment with the scammer, and that he provided her with updates on upcoming investment opportunities. Mrs A was also the one who initiated much of the conversation – saying when she was available to talk and suggested using other crypto exchange platforms offering better rates or reduced fees.

The scammer also didn't pressure Mrs A into depositing the funds. The payments are relatively spaced out; and Mrs A has said she only invested more when she could see how well the investment was doing. I can also see from the evidence that Mrs A suggested to the scammer that the trading continued whilst she waited the funds to cover the last £5,000 payment. On 18 April 2023 Mrs A said to the scammer:

'... just had an update on the 5k and I should be receiving it next Monday not this Wednesday as originally thought. Perhaps we can continue to do some trading this week in the meantime? I can call in the next three hours if you are free?'

This indicates to me that even by the time of the third payment, Mrs A was driving the investment and had no doubts of its legitimacy. There's also some suggestion in the chat that Mrs A has introduced the investment to a third party. On 21 April 2023 she said to the scammer:

'It would be great if you could call ... he is waiting for your call and ready with the trades. This is ...'s number ...'

A clear hallmark of a crypto investment scam is the inability to make withdrawals without paying a fee. In Mrs A's case, she suspected something was wrong when she was asked to pay a fee to release her funds. But this was some time *after* all the payments had been made. And a key point here is that Mrs A accepted the scammer's advice to not make *any* withdrawals for seven weeks to allow the investment to mature - and he was upfront with her about taking his share as commission. I've not seen any evidence to suggest that Mrs A questioned any of this with the scammer at the time – nor did she attempt to make a withdrawal until the seven weeks had passed.

All this suggests to me that it's more likely than not, on balance, that Mrs A would've proceeded with the first payment – even if Revolut had alerted her, by way of a tailored written warning about crypto investment scams, to the risks involved and the checks she should make. Mrs A was clearly fully invested in the process – and the evidence I've seen suggests to me that *any* concerns Mrs A might've had on receiving warnings from Revolut are more likely than not to have been allayed by the scammer or by her own research.

For completeness, I've given some thought as to whether the second and third payments should've also been flagged by Revolut – and whether that would've prevented Mrs A suffering further loss.

Firstly, all three payments are relatively spaced out, don't increase in value and are to the same payee. This is all contrary to the pattern we often see in crypto investment scams. And I'm mindful that Revolut customers often use their accounts for legitimate crypto investment purposes. So, I don't think Revolut would've had any obvious reason to flag the second and third payments made by Mrs A as suspicious. But even if it had, I still believe, based on the reasons I've outlined above, that such intervention would've unlikely made a difference.

Taking all this into account, I'm not persuaded that a proportionate intervention from Revolut would've likely prevented Mrs A's loss in the circumstances of this complaint.

Did Revolut do enough to try and recover the lost funds?

I've considered whether Revolut could reasonably have done anything more to recover Mrs A's losses, but I don't think it could.

It's not in dispute that Mrs A's payments were made to 'M', a legitimate crypto exchange, rather than to the scammer directly. And she would've received a service from 'M' which involved changing her payments into crypto before sending it to the wallet address she supplied it with (albeit the wallet address was provided by the scammer).

Mrs A's disagreement is with the scammer, not the crypto exchange. As such, I'm satisfied any attempt to dispute the transactions through the card scheme would've likely been successfully defended by 'M', on the basis that it provided the service Mrs A paid for – the exchange of money into crypto; albeit unbeknown to her at the time, as part of a scam. So, I don't think there was any prospect of Mrs A recovering her money this way.

I have a great deal of sympathy for Mrs A and the loss she's suffered, as I appreciate it is a significant sum of money. But it would only be fair for me to direct Revolut to refund her loss if I thought it was responsible – and I'm not persuaded that this was the case. For the above reasons, I think Revolut has acted fairly and reasonably, and so I'm not going to tell it to do anything further.

My final decision

For the reasons given above, my final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs A to accept or reject my decision **before 25 September 2024**.

Anna Jackson
Ombudsman