

The complaint

Mr M complains that Revolut Ltd won't refund money he lost when he fell victim to a cryptocurrency investment scam.

Mr M is being represented by solicitors in this complaint.

What happened

The complaint concerns three transactions totalling approximately £25,000 which Mr M made from his Revolut account over a period of five weeks in May-June 2023. They were made in connection with an investment opportunity which Mr M subsequently discovered was a scam.

Mr W has explained that the scammer instructed him to open the Revolut account as part of the scam. He also took out a loan of £15,000 from an online lender to fund the investment. It was paid into his account with another payment service provider "N", which Mr M then transferred to Revolut. To deposit the funds into his investment account, Mr M made electronic transfers to a cryptocurrency exchange for conversion into cryptocurrency. Once converted, the cryptocurrency was sent on to cryptocurrency wallets as instructed by the scammer.

I issued my provisional decision last month and gave reasons for why I intended not upholding Mr M's complaint. I said –

"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 (in this case the 2017 regulations) 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 be good industry practice at the time, I consider it fair and reasonable that in May 2023 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),*

- 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 first disputed transaction, for £1,000 on 22 May, flagged as suspicious on Revolut's fraud detection systems and it advised Mr M that the payment was flagged as a potential scam. It asked him to provide the purpose of that payment – Mr M was required to select from a list of options. He selected 'cryptocurrency'. Following this, he was provided a warning which covered the typical features of cryptocurrency scams over a series of screens which couldn't be skipped. At the end of the warning, Mr M was presented with the option of cancelling the payment or sending it. Revolut also gave him the option to read its scams blog or speak to an agent. Mr M went ahead with the payment.

I've thought very carefully about what happened here. Revolut recognised that the transaction carried a heightened risk of financial harm from fraud and took additional steps. In the circumstances of this case, and given the transaction amount involved, I consider that the steps it took – establishing the nature of the transaction to provide a tailored written warning – was proportionate to the risk involved.

The next transaction, £14,999 on 26 May to the same payee, didn't trigger Revolut's systems. I've considered that the transaction went to an existing payee. I also accept that buying cryptocurrency is a legitimate exercise. But by 2023, there had been an increased prevalence of investment scams involving cryptocurrency. Given the significant jump in the amount Mr M was sending – a known fraud pattern with investment scams – I'm satisfied that Revolut ought to have recognised that it carried a heightened risk of financial harm from fraud.

I think that a proportionate response to that risk would have been for Revolut to have gone beyond the provision of a written warning specific to cryptocurrency investment scams – there should have been a direct intervention, even if that meant directing Mr M to the in-app chat so an agent could make further enquiries. But, had Revolut done so, I'm not persuaded that it would have prevented Mr M's loss. I'll explain why.

The transfer from Mr M's account with another payment service provider – which funded the disputed transaction in question – was flagged for fraud checks. This transfer also happened on 26 May. I've listened to a recording of the call between him and a representative of that payment service provider. Mr M was asked about the payment purpose and when probed, he did confirm that the funds were being transferred into his Revolut account for the purposes of cryptocurrency investment. When asked about his experience in cryptocurrency investment, Mr M said he'd been investing for a few years (in a subsequent call he was more specific and said five years). He said it had been profitable in the past and added that a work colleague had told him about it.

The agent asked Mr M if he'd been cold called; he said no. They then asked if a third party had been involved; again, he said no. The agent said that cryptocurrency scams had been prevalent and apologised for asking all the questions. They added that unfortunately customers eventually admitted third party involvement (suggesting this was when it was too late). The agent then asked Mr M if he was sure no one else was involved. He insisted there wasn't. But we know that that wasn't the case – someone else was involved and he'd followed their instructions to open a Revolut account as well as obtain a loan. It's worth highlighting at this point that Mr M misled

the loan provider about the purpose of the borrowing – he said it was for home improvements.

So, what I have is contemporaneous evidence of Mr M misleading another business – with whom he had a longer relationship with – when questioned over the phone. And being dishonest with a lender about the reason for borrowing money. Mr M's answers suggest he was willing to mislead his bank – either because he'd been coached or out of his own volition. I appreciate that his representative believes further questioning by Revolut when Mr M authorised the second disputed transaction would have had a different impact. But I'm not convinced.

It's arguable whether Revolut ought to have intervened again when Mr M authorised the final disputed transaction of £10,000 on 27 June. There had been a month-long gap between the transactions by that point, and previous payments to the payee had come to form part of the account spending pattern. But even it had, given there was an intervention by his bank the following day and Mr M still maintained that no one else was helping him with his cryptocurrency investment, I'm not persuaded that another intervention would have positively impacted his decision-making.

Recovery wise, these transactions were made to legitimately purchase cryptocurrency. Given Mr M has told us he moved the cryptocurrency on to the third-party wallets, recovery would likely have failed. For completeness, Revolut couldn't have attempted recovery from the third-party wallet owner (i.e., the scammer)."

I invited comments from both parties.

Revolut said it didn't have anything further to add.

Mr M's representative said they agree that Revolut should have intervened on the second payment made. It's a shame that it won't be penalised for its failure, but Mr M will be penalised for his. The representative adds that the repetition of warnings would have more impact and would have a greater chance of catching 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.

I thank both parties for responding to my provisional decision.

I'm sorry to hear that Mr M feels he's being penalised. I did make the finding that that Revolut missed an opportunity to intervene when Mr M authorised the second transaction. But that's not the end of the matter. Causation is a critical determinative factor in every scam case. It isn't enough that a payment service provider like Revolut failed to act fairly or reasonably; its acts or omissions must be the immediate and effective cause of losses that were reasonably foreseeable at the time of the breach. Where that isn't the case, the payment service provider might not be liable.

I explained in my provisional decision that I'm not convinced an intervention at that time would have made a difference to Mr M's decision-making. To recap, another payment service provider intervened on the same day and asked appropriate questions. But Mr M reassured them that no one else was involved in his cryptocurrency investment. So, I'm not persuaded that a further intervention and warning by Revolut would have stopped him from going ahead.

Mr M's representative states that repetition of warnings would have more impact and greater chance of catching the scam. But I mentioned in my provisional decision that when the other payment service provider intervened again a few weeks later, Mr M still maintained that no one else was helping him with his investment.

So, having carefully considered the points Mr M's representative has made in response to my provisional decision, my outcome remains unchanged.

I know that Mr M will be disappointed with this outcome. Not least because the matter has been ongoing for some time. I fully acknowledge that there's a considerable amount of money involved here. Despite my natural sympathy for the situation in which he finds himself, for the reasons given, it wouldn't be fair of me to hold Revolut responsible for his loss.

My final decision

For the reasons given above, my final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 19 September 2024.

Gagandeep Singh
Ombudsman