

## **The complaint**

Miss C complains that Revolut Ltd didn't do enough to protect her when she made payments toward a scam, and that it hasn't refunded her since she discovered that scam.

## **What happened**

The background to this complaint is well-known to all parties and so I'll only provide a summary here.

In February 2023 Miss C saw an advert for an investment opportunity on a social media platform. She was interested and so made enquiries. She was contacted by a broker claiming to work for a firm which helped people invest into cryptocurrency. What Miss C didn't know at the time was that she was becoming caught up in a scam.

Miss C discussed the opportunity with the scammer and decided to invest. She was told she'd need to fund the investment by sending money from a Revolut account to a cryptocurrency wallet. She'd then need to transfer the funds on again, ostensibly to credit her investment account, but in reality, the money was going to a wallet controlled by the scammers.

Miss C sent paid £40 to her crypto wallet by way of card payment and then sent the funds on at the scammer's instruction. She was able to withdraw what she believed were legitimate returns and so continued to send more money. The following payments were made:

- 22 February 2023 - £1,695
- 9 March 2023 - £7,000
- 15 March 2023 - £6,400

To facilitate these payments, Miss C transferred money from her current account held with a high street bank to Revolut.

Miss C was able to track her investment through an online portal, and all seemed to be going well. But shortly after her final payment was made she found her login details for the portal stopped working. She tried to get answers from her contact but received no responses. It's then she realised she'd been scammed, and she contacted Revolut to report what had happened.

Revolut considered the circumstances of the scam but said it wouldn't reimburse Miss C's loss. It said she'd authorised all the payments herself and it had done nothing wrong in processing her instructions.

Unhappy with its response, Miss C brought her complaint to our service. One of our investigators considered the complaint and recommended it be upheld. He said the activity on Miss C's account had become unusual and that there were signs Miss C was at risk of financial harm through fraud. He said Revolut ought to have given Miss C a tailored warning about cryptocurrency investment scams when she tried to make the £7,000 payment on 9 March 2023.

He went on to say that, had Revolut delivered the type of warning it ought to have done, Miss C would have recognised the common scam features present in her own circumstances and so would have stopped what she was doing, with any further loss avoided. On that basis, he found Revolut had made a mistake in processing the payments in the way it did and that the mistake had led to Miss C's loss. His finding was then that Revolut ought to bear some responsibility for that loss.

Our investigator also considered Miss C's actions and didn't find they'd been reasonable throughout. Among other things, he noted she didn't appear to have carried out much research on who she was dealing with so that she might verify their legitimacy. And he could see there were scam warnings online for the company at the time Miss C sent her money.

Our investigator's recommendation was then that Miss C be responsible for all payments prior to 9 March 2023 but that she and Revolut share responsibility from that point onwards on a 50:50 basis.

Miss C agreed but Revolut did not. It said, in summary, it does not owe a duty to prevent fraud and scams, that our service had departed from the law but not explained why, that reimbursement schemes do not apply to the disputed payments, and that it was unfair to hold Revolut responsible where it was just an intermediate link in a chain of transactions.

As an outcome agreeable to all parties hasn't been reached the case has been passed to me.

### **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'm upholding it and for broadly the same reasons as our 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 (in this case the 2017 regulations) and the terms and conditions of the customer's account.

And, as the Supreme Court has recently 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 Miss C 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 to refuse payments in certain circumstances, including to comply with regulatory requirements such as the Financial Conduct Authority's Principle for Businesses 6, which required financial services firms to pay due regard to the interests of their customers and treat them fairly. I am 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 am 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 in March 2023 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 am 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 fraud;<sup>1</sup>
- 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 is my understanding that in March 2023, Revolut, whereby if it identified a scam risk associated with a card payment through its automated systems, could (and

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<sup>1</sup> 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/](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/)

sometimes did) initially decline to make that payment, in order to ask some additional questions (for example through its in-app chat).

I am also mindful that:

- Electronic Money Institutions 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)<sup>2</sup>.
- 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 do not suggest that Revolut ought to have had concerns about money laundering or financing terrorism here, but I nevertheless consider these requirements to be relevant to the consideration of Revolut’s obligation to monitor its customer’s accounts and scrutinise transactions.
- The October 2017, BSI Code<sup>3</sup>, 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 (and Revolut was not a signatory), but the standards and expectations it referred to represented 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

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<sup>2</sup> 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.

<sup>3</sup> BSI: PAS 17271: 2017” Protecting customers from financial harm as result of fraud or financial abuse”

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 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); 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, 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.

Whilst I am required to take into account the matters set out at DISP 3.6.4R when deciding what is fair and reasonable, I am satisfied that to comply with the regulatory requirements that were in place in March 2023, Revolut should in any event have taken these steps.

*Should Revolut have recognised that Miss C was at risk of financial harm from fraud?*

It isn't in dispute that Miss C has fallen victim to a cruel scam here, nor that she authorised the payments she made by transfers to third parties and to her cryptocurrency wallet (from where that cryptocurrency was subsequently transferred to the scammer).

Whilst I have set out in detail in this decision the circumstances which led Miss C to make the payments using her Revolut account and the process by which that money ultimately fell into the hands of the fraudster, I am mindful that, at that time, Revolut had much less information available to it upon which to discern whether any of the payments presented an increased risk that Miss C might be the victim of a scam.

I'm aware that cryptocurrency exchanges like B generally stipulate that the card used to purchase cryptocurrency at its exchange 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 the payments Miss C made would be credited to a cryptocurrency wallet held in Miss C's name.

When these transactions took place, 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. 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. And I'm also mindful that 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 consumers being directed by fraudsters to use Revolut accounts in order to facilitate the movement of the victim's money from their high street bank account to a cryptocurrency provider, a fact that Revolut is aware of.

So, taking into account all of the above I am satisfied that by the end of 2022, prior to the payments Miss C made in March 2023, Revolut ought fairly and reasonably to have recognised that 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 consumer's own name.

To be clear, I'm not suggesting as Revolut argues that, as a general principle (under the Consumer Duty or otherwise), Revolut should have more concern about payments being made to a customer's own account than those which are being made to third party payees.

As I've set out in some detail above, it is the specific risk associated with cryptocurrency in March 2023 that, in some circumstances, should have caused Revolut to consider transactions to cryptocurrency providers as carrying an increased risk of fraud and the associated harm.

In those circumstances, as a matter of what I consider to have been fair and reasonable, good practice and to comply with regulatory requirements (including the Consumer Duty), Revolut should have had appropriate systems for making checks and delivering warnings before it processed such payments. And as I have explained Revolut was also required by the terms of its contract to refuse or delay payments where regulatory requirements meant it needed to carry out further checks.

Taking all of the above into account, and in light of the increase in multi-stage fraud, particularly involving cryptocurrency, I don't think that the fact most of the payments in this case were going to an account held in Miss C's own name should have led Revolut to believe there wasn't a risk of fraud.

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

I think Revolut should have identified that all payments were going to a cryptocurrency provider (the merchant is a well-known cryptocurrency provider). But the first two payments were relatively low in value, and I don't think Revolut should reasonably have suspected that they might be part of a scam.

Payment three was significantly larger than any other payments that had debited Miss C's account in the previous six months and was also being paid to a cryptocurrency. It was uncharacteristic of all normal activity on her account, save the earlier cryptocurrency payments.

On balance, taking into account that Revolut needs to take an appropriate line between protecting against fraud and not unduly hindering legitimate transactions, and also considering the value of this payment, and given what Revolut knew about the destination of the payment, I think that the circumstances should have led Revolut to consider that Miss C was at heightened risk of financial harm from fraud.

In line with good industry practice and regulatory requirements, I am satisfied that it is fair and reasonable to conclude that Revolut should have warned its customer before this payment went ahead.

To be clear, I do not suggest that Revolut should provide a warning for every payment made to cryptocurrency. Instead, as I've explained, I think it was a combination of the characteristics of this payment (combined with those which came before it, and the fact the payment went to a cryptocurrency provider) which ought to have prompted a warning.

Revolut argues that it is unlike high street banks in that it provides cryptocurrency services in addition to its electronic money services. It says that asking it to 'throttle' or apply significant friction to cryptocurrency transactions made through third-party cryptocurrency platforms might amount to anti-competitive behaviour by restricting the choice of its customers to use competitors. As I have explained, I do not suggest that Revolut should apply significant friction to every payment its customers make to cryptocurrency providers. However, for the reasons I've set out above I'm satisfied that by March 2023 Revolut should have recognised at a general level that its customers could be at increased risk of fraud when using its services to purchase cryptocurrency and, therefore, it should have taken appropriate measures to counter that risk to help protect its customers from financial harm from fraud.

Such proportionate measures would not ultimately prevent consumers from making payments for legitimate purposes.

#### What did Revolut do to warn Miss C?

I've seen no evidence to suggest Revolut provided any kind of warning to Miss C.

#### What kind of warning should Revolut have provided?

I've thought carefully about what a proportionate warning in light of the risk presented would be in these 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 this payment was made.

Taking that into account, I think Revolut ought, when Miss C attempted to make the 9 March payment, knowing (or strongly suspecting) that the payment was going to a cryptocurrency provider, to have provided a warning (whether automated or in some other form) 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 that it would be difficult for such a warning to cover off every permutation and variation of cryptocurrency scam, without significantly losing impact.

So, at this point in time, I think that such a warning should have addressed the key risks and features of the most common cryptocurrency 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 on social media; an 'account manager', 'broker' or 'trader' acting on their behalf; a small initial deposit which quickly increases in value; and the use of an external platform that required funding from a cryptocurrency wallet.

I recognise that 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 Miss C by covering the key features of scams affecting many customers but not imposing a level of friction disproportionate to the risk the payment presented.

*If Revolut had provided a warning of the type described, would that have prevented the losses Miss C suffered from the 9 March 2023 payment?*

It's evident that Miss C was convinced she was dealing with legitimate parties when she sent the money. And there appear to have been elements of sophistication involved, including the use of an online portal.

But I'm also conscious that Miss C had received no education or warning about these scams when she was sending her money. And, had she been presented with such, and where the common features being highlighted were so close to her own circumstances, I'm persuaded it's more likely than not she would have responded to a suitable warning and stopped what she was doing. It follows that her further losses could then have been avoided.

I've seen no evidence which persuades me Miss C would simply have disregarded the warnings. And there's nothing I've seen to suggest Miss C wouldn't have been open and honest with Revolut about what she was doing.

I have also considered whether there were interventions from Miss C's other account provider when she transferred funds from there to Revolut. But there were no such interventions so there is no impact on my findings as to Miss C's likely actions.

*Is it fair and reasonable for Revolut to be held responsible for Miss C's loss?*

In reaching my decision about what is fair and reasonable, I have taken into account that Mrs S purchased cryptocurrency which credited an e-wallet held in her own name, rather than making a payment directly to the fraudsters. So, she remained in control of her money after she made the payments from her Revolut account, and it took further steps before the money was lost to the fraudsters.

I have carefully considered Revolut's view that in a multi-stage fraud, a complaint should be properly considered only against either the firm that is a) the 'point of loss' – the last point at which the money (or cryptocurrency) remains under the victim's control; or b) the origin of the funds – that is the account in which the funds were prior to the scam commencing. It says it is (in this case and others) merely an intermediate link – being neither the origin of the funds nor the point of loss and it is therefore irrational to hold it responsible for any loss.

In reaching my decision, I have taken into account that the 9 March 2023 payment was made to another financial business (a cryptocurrency exchange) and that the payments that funded the scam were made from other accounts at regulated financial businesses.

But as I've set out in some detail above, I think that Revolut still should have recognised that Miss C might have been at risk of financial harm from fraud when they made the £7,000 payment, and in those circumstances it should have declined the payment and made further enquiries. If it had taken those steps, I am satisfied it would have prevented the losses Miss C suffered. 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 Miss C's own account does not alter that fact and I think Revolut can fairly be held responsible for Miss C's loss in such circumstances. I don't think there is any point of law or principle that says that 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 Miss C has only complained against Revolut. I accept that it's *possible* that other firms might also have missed the opportunity to intervene or failed to act fairly and reasonably in some other way, and Miss C could instead, or in addition, have sought to complain against those firms. But Miss C has not chosen to do that and ultimately, I cannot compel them to. In those circumstances, I can only make an award against Revolut.

I'm also not persuaded it would be fair to reduce Miss C's compensation in circumstances where: the consumer has only complained about one respondent from which they are entitled to recover their losses in full; has not complained against the other firm (and so is unlikely to recover any amounts apportioned to that firm); and where it is 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 have set out above, I am satisfied that it would be fair to hold Revolut responsible for Miss C's loss from 9 March 2023 onwards (subject to a deduction for Miss C's own contribution which I will consider below).

#### *Should Miss C bear any responsibility for her losses?*

Our investigator considered that Miss C ought to bear some responsibility for the loss. She accepted that position following our investigator's findings, and it's not a point that Revolut disagrees with either. And so there's no dispute in respect of this aspect of the complaint and little need for me to make a detailed finding.

Suffice to say that I agree Miss C ought to have been more cautious about proceeding as she did, given the sums she was seeking to invest. And it does appear to be the case that the company Miss C believed she was dealing with had already been called out and warned against as a scam. So I agree it's fair and reasonable for responsibility for the loss from 9 March 2023 to be shared equally between her and Revolut.

#### **Putting things right**

On Miss C's acceptance Revolut must:

- reimburse Miss C 50% of the total loss from 9 March 2023 onwards, taking account of any returns received/funds recovered after that date; *and*

- Pay interest on that sum at 8% simple per year, calculated from the date of loss to the date of settlement.

**My final decision**

I uphold this complaint against Revolut Ltd.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss C to accept or reject my decision before 26 March 2025.

Ben Murray  
**Ombudsman**