

The complaint

Mr H is being represented by solicitors. He's complaining about Revolut Ltd because it declined to refund money he lost as a result of fraud.

What happened

Sadly, Mr H fell victim to cruel investment scam. He was researching online for investment opportunities and responded to an advert offering the potential for high returns from a limited initial investment. After checking online, where he says he only found positive reviews about the company, Mr H left his details. He was then contacted by the scammer who coached him through setting up an account on the scam company's website that appeared to show live trades and profits on his account.

To fund payments to the scam, Mr H set up an account with Revolut, from which he made the following card payments to a known cryptocurrency exchange before the money was then transferred to the scammer:

No.	Date	Amount £
1	23 May 2023	1,000
2	5 June 2023	2,000
3	18 July 2023	1,900
4	18 July 2023	3,100
5	20 July 2023	950
6	24 July 2023	1,463

Our investigator recommended the complaint be partly upheld. She felt Revolut should have contacted Mr H to discuss the purpose of payment 4 before it was processed and that the scam would have been stopped at that point if it had.

Mr H accepted the investigator's assessment. Revolut didn't. In its defence of this complaint, it's made the following key points:

- Mr H paid money to an account in his own name, meaning the scam didn't occur on its platform. This also means the payments weren't covered by the Contingent Reimbursement Model Code (CRM Code).
- It owes no duty to prevent fraud and scams and, as confirmed in the Supreme Court case of Philipp v Barclays Bank, it's not required to assess the wisdom of or potential for loss associated with payments instructed by its customers.
- This type of payment isn't unusual for an account of this type. Further, this was a newly-opened account so there was no history against which the payments could have been judged as being out of character for Mr H.
- The payments were authorised using the 3DS system, confirming they were made by Mr H.

- We should also be considering possible interventions by other businesses involved in the series of payments that ended up with money being transferred to the scam.
- Mr H is also guilty of a lack of due diligence. For example, by accepting investment advice from a stranger without seeking professional advice, failing to research the risks associated with cryptocurrency investment or check the Financial Conduct Authority's (FCA) website to see if the scam company was authorised.

The complaint has now been referred to me for review.

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 overall conclusions as the investigator, and for broadly the same reasons. In deciding what's fair and reasonable, I'm required to take into account relevant law and regulations, regulators' rules, guidance and standards, and codes of practice; and, where appropriate, I must also take into account what I consider to have been good industry practice at the time. I haven't necessarily commented on every single point raised but concentrated instead on the issues I believe are central to the outcome of the complaint. This is consistent with our established role as an informal alternative to the courts.

In broad terms, the starting position at law is that an Electronic Money Institution (EMI) such as Revolut is expected to process payments a customer authorises it to make, in accordance with the Payment Services Regulations and the terms and conditions of their account. In this context, '*authorised*' essentially means the customer gave the business an instruction to make a payment from their account. In other words, they knew that money was leaving their account, irrespective of where that money actually went.

In this case, there's no dispute that Mr H authorised the above payments. 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 Mr H modified the starting position described in *Philipp*, by 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.

And, I am satisfied that, taking into account longstanding regulatory expectations and requirements and what I consider to have been good industry practice at the time, Revolut should by May 2023 fairly and reasonably 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 (irrespective of whether it was also required by the express terms of its contract to do so).

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 do in fact seek to take those steps, often by:

- using algorithms to identify transactions presenting an increased risk of fraud;¹
- 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; and
- 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 by May 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)

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/

In reaching my conclusions about what Revolut ought fairly and reasonably to have done, 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)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 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 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 (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 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

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.

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

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.

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 by May 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;
- 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; and
- 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).

Taking these points into account, I need to decide whether Revolut acted fairly and reasonably in its dealings with Mr H.

I also note Revolut's reference to the payments being authenticated by the 3DS system. But it's my understanding this is designed to verify the identity of the payee and it's not in dispute that Mr H made the payments in this case. While this system may help prevent scams where someone else tries to make a payment without the consumer's knowledge, I don't think Revolut can reasonably rely on it to prevent the type of scam where a consumer is tricked into making a payment themselves.

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

One of the key features of a Revolut account is that it facilitates payments that often involve large amounts and sometimes the purchase of cryptocurrency. I'm also conscious this was a new account and there was no history of past activity against which these payments might have looked suspicious.

Nonetheless, Revolut knew the payments were going to a cryptocurrency exchange. Losses to cryptocurrency fraud reached record levels in 2022 and, by the end of that year, many high street banks had placed restrictions or additional friction on cryptocurrency purchases owing to the elevated fraud risk. So, by the time these payments took place, I think that Revolut should have recognised that payments to cryptocurrency carried a higher risk of being associated with fraud.

Having considered what it knew about payments 1 to 3, including the amounts involved and the fact they were spaced out over a reasonable period, I don't think Revolut should have viewed them with any particular suspicion or suspected Mr H may be at risk of harm from fraud.

But payment 4 on 18 July was the second payment made on that day with a total value of £5,000. Having considered the risks presented by this payment, I think this is the point at which Revolut should have identified a pattern consistent with many types of scam was beginning to emerge and that Mr H may be at risk of harm from fraud.

What did Revolut do to warn Mr H?

Revolut has confirmed it didn't intervene in the process before payment 4 was debited from Mr H's account.

What kind of warning should Revolut have provided?

Having thought carefully about the risks this payment presented, I think a proportionate response to that risk would have been for Revolut to have attempted to establish the circumstances surrounding the payment before allowing it to debit Mr H's account. I think it should have done this by, for example, directing him to its in-app chat to discuss the payment further.

If Revolut had intervened in this way, would that have prevented the losses Mr H suffered from payment 4?

I've seen nothing in the evidence provided, including the extracts provided from Mr H's chats with the scammer, to indicate he was coached or otherwise encouraged to mislead anyone if he was asked about the purpose of the payments. So if Revolut had asked Mr H about payment 4, I think it's most likely he'd have been honest with his answers and explained that he'd been purchasing cryptocurrency to fund an investment. And that the money he was paying on 18 July was to cover fees so he could withdraw his 'profits'.

If an appropriately qualified agent had asked further questions about the circumstances of the investment, I think they should have been able to establish that Mr H invested in response to an online advert, was being guided through the process by someone he'd never met, was being told he'd made profits that were likely too good to be true, and was being asked for further payments to enable him to access his money. All of these are common features of many types of investment scam and the agent should have been able to recognise that.

Once the agent had identified Mr H may be falling victim to a scam, they could have explained this to him and provided a tailored warning listing the common features of investment scams. Once he'd received this information, I think it's likely Mr H would have recognised many aspects of his own situation and that the warning would have resonated with him.

In concluding that a warning would have resonated with Mr H, I'm also conscious that he already appears to have been having doubts about the scheme by the time of payment 4, as evidenced by an extract from his chat with the scammer that refers to "*alleged Swiss capital gains tax*" and says:

I have currently spent £10,413.00 which included my initial investments in total of £3,000.00 plus alleged Block Chain fees, [name of scam investment company] (no receipt received) Swiss Bank alleged charges (no invoice or receipt issued).

So my total alleged profit is approx. £10,809.00.

You are now asking me to pay £5,000.00 in alleged Swiss Capitals gains tax to enable payment of my money which equates to nearly £5,000.00 of tax (nearly 50%) leaving a profit of just over the same.

I have to say that this is the fifth time you have asked me to pay money up front for one reason and another in order to obtain my funds (within an hour was quoted the first time and second, then 24 hours, then 3 to 5 Business Days and now 24 hours. So now of [extract cut off at this point]

I think these doubts would only have been reinforced by an appropriate warning from a Revolut agent. Further, I note the FCA issued a warning about the scam company on 6 July 2023 and this is something he may reasonably have been able to discover if an intervention by Revolut had prompted him to carry out further research before continuing with the payment.

On balance, I think a proportionate intervention by Revolut would have been successful in preventing Mr H from continuing with payment 4. I think it follows that if the scam had been uncovered at the point of payment 4, payments 5 and 6 would also have been prevented.

What about the actions of Mr H's bank?

This was a multi-stage fraud that saw Mr H move money from his bank to Revolut and then eventually onto the scammer. This complaint is about Revolut and it's not appropriate for me to comment here on whether or not the bank should have identified he was at risk of harm from fraud and whether it reacted proportionately. But to obtain a full picture of what took place, we have contacted Mr H's bank to establish if it attempted any kind of intervention before transferring his money to Revolut and, if so, how this affects my assessment of whether or not he acted reasonably in the circumstances.

Mr H's bank has told us he would have been asked about the purpose of the payments when transferring money to Revolut but that it no longer has a record of his answers. It has however confirmed that it has no record of any calls with Mr H or anything else to indicate there was any kind of further intervention.

On balance, I don't think there was any intervention by Mr H's bank that should particularly have alerted him to the fact he was speaking to a scammer or that changes my views about how Revolut should have dealt with this situation and whether he acted reasonably in the circumstances with which he was faced.

Is it fair and reasonable for Revolut to be held responsible for some of Mr H's loss?

In reaching my decision about what's fair and reasonable, I have taken into account that Mr H paid money using his Revolut account to another account in his own name, rather than directly to the scammer, so he remained in control of the money after he made the payments, and there were further steps before the money was lost to the scammer.

However, for the reasons I've set out above, I'm satisfied it would be fair to hold Revolut responsible for Mr H's loss from payment 4, subject to a deduction for his own contribution towards this. As I've explained, the potential for multi-stage scams, particularly those involving cryptocurrency, ought to have been well known to Revolut. And as a matter of good practice, I consider it fair and reasonable that it should have been on the look-out for payments presenting an additional scam risk including those involving multi-stage scams.

I have also taken into account that other businesses were involved in the overall process that ended up with payments being made to the scammer, and that Mr H might potentially

have a claim against them in respect of their actions (although those businesses are not a party to this complaint and so I make no finding about their role here).

Whilst the dispute resolution rules (DISP) give me the power (but do not compel me) to require a financial business to pay a proportion of an award in circumstances where a consumer has made complaints against more than one financial business about connected circumstances, Mr H has not referred a complaint about any other business to me and DISP does not empower me to instruct him to make or refer a complaint to me about another business.

Revolut has also argued in submissions to our service that we are applying the provisions of the Contingent Reimbursement Model Code (CRM Code) to complaints against it, despite it not being a signatory and in circumstances where the CRM Code would not, in any case, apply. It's also argued that the Payment Systems Regulator's ("PSR") recently introduced mandatory reimbursement scheme would not require Revolut to reimburse in this situation.

I do not seek to treat Revolut as if it were a signatory to the CRM Code. I've explained in some detail the basis on which I think, fairly and reasonably, it ought to have identified Mr H was at risk of financial harm from fraud and taken further steps before payment 4 debited his account.

I'm also aware that the PSR's mandatory reimbursement scheme wouldn't require Revolut to reimburse Mr H.

The PSR's proposals weren't in place at the time of payment 4 and it's not relevant to my decision about what's fair and reasonable in this complaint. But I don't consider the fact that the PSR didn't make it compulsory for payment service providers to reimburse consumers who transfer money to an account in their own name as part of a multi-stage fraud, means that Revolut shouldn't compensate Mr H in circumstances where it failed to act fairly and reasonably, as I have found was the case here. Indeed, the PSR has recently reminded firms that fraud victims have a right to make complaints and refer them to the Financial Ombudsman Service that exists separately from the intended reimbursement rights and that APP scam victims will still be able to bring complaints where they believe that the conduct of a firm has caused their loss (in addition to any claim under the reimbursement rules).

I do not consider it to be relevant that the circumstances here do not fall under the specific definition of an APP scam set out in the CRM Code, mandatory reimbursement scheme and DISP rules. Those definitions define the scope of the redress schemes and eligibility of payers to complain. They don't preclude me from considering whether Revolut failed to act fairly and reasonably when it made payment 4 without providing an appropriate warning to Mr H. So, I'm satisfied Revolut should fairly and reasonably have provided a warning or made further enquiries before processing the payment. If it had, it's more likely than not that the scam would have been exposed and Mr H wouldn't have lost any more money. In those circumstances I am satisfied it is fair to hold Revolut responsible for at least some of his loss.

Should Mr H 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.

I've considered the evidence carefully and, while I accept Mr H believed these payments were being made in connection with a legitimate investment opportunity, I'm not persuaded that belief was a reasonable one throughout the course of the scam.

By the time of payment 4, Mr H appears to have been being told he'd made extremely high returns and I think he should reasonably have questioned whether this was too good to be true. Further, he was being asked to pay taxes and fees that hadn't previously been discussed to access his money and, as I've outlined above, he appears to have been having concerns about the scheme at this point. In the circumstances, I think he ought to have proceeded only with great caution. If he'd carried out any further research, for example online searches, I think he'd have quickly discovered his circumstances were similar to those commonly associated with investment fraud. Overall, I think it's fair and reasonable for Revolut to make a 50% deduction from the redress payable.

Recovery of funds

I've also looked at whether Revolut could or should have done more to try and recover Mr H's losses once it was aware that the payments were the result of fraud.

I understand Mr H first notified Revolut of the fraud in September 2023, several weeks after the last payment. It's a common feature of this type of scam that the fraudster will move money very quickly to other accounts once received to frustrate any attempted recovery.

Further, Mr H transferred funds to a legitimate cryptocurrency account in his own name. From there, he purchased cryptocurrency and moved it onto a wallet address of his choosing (albeit on the scammers' instructions). If Revolut tried to recover the funds, it could only have tried to do so from Mr H's own account and it appears all the money had already been moved on and, if not, anything that was left would still have been available to him to access.

As the payments outlined above were card payments, I've considered whether Revolut should have tried to recover the money through the chargeback scheme. This is a voluntary agreement between card providers and card issuers who set the scheme rules and is not enforced by law. A chargeback isn't guaranteed to result in a refund, there needs to be a right to a chargeback under the scheme rules and under those rules the recipient of the payment can defend a chargeback if it doesn't agree with the request.

We'd only expect Revolut to have raised a chargeback claim if it was likely to be successful and it doesn't appear that would have been the case here. Mr H paid a legitimate cryptocurrency exchange and would have received a service that involved changing his money into cryptocurrency before sending it to the wallet address he supplied it with. Mr H's disagreement is with the scammer, not the cryptocurrency exchange and it wouldn't have been possible for Revolut to process a chargeback claim against the scammer as he didn't pay them directly.

Taking everything into account, I don't think anything that Revolut could have done differently would have led to these payments being successfully recovered.

In conclusion

For the reasons I've explained, I don't think Revolut acted fairly and reasonably in its dealings with Mr H and I'm upholding this complaint in part. While I don't think it acted incorrectly in processing payments 1 to 3 in line with Mr H's instructions, if it had carried out an appropriate intervention before payment 4 debited his account, I'm satisfied payments 4 to 6 would have been prevented.

Putting things right

The principal aim of any award I make must be to return Mr H to the position he'd now be in but for the errors or inappropriate actions of Revolut, while allowing for any responsibility he

should reasonably bear. If Revolut had carried out an appropriate intervention as I've described, I'm satisfied the scam would have been stopped and Mr H would have retained the money that was lost from payment 4 onwards. As outlined above, I've applied a 50% deduction to the amounts to be refunded in recognition of Mr H's own contribution towards the loss.

To put things right, Revolut should pay Mr H compensation of A + B, where:

- A = a refund of 50% of each of payments 4 to 6 outlined above; and
- B = simple interest on each amount being refunded in A at 8% per year from the date of the corresponding payment to the date compensation is paid.

Interest is intended to compensate Mr H for the period he was unable to use this money. HM Revenue & Customs (HMRC) requires Revolut to deduct tax from any interest. It must provide Mr H with a certificate showing how much tax has been deducted if he asks for one.

I'm satisfied this represents a fair and reasonable settlement of this complaint.

My final decision

My final decision is that I partly uphold this complaint. Subject to Mr H's acceptance, Revolut Ltd should now put things right as I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 11 June 2025.

James Biles
Ombudsman