

THE COMPLAINT

Miss H holds/held an account with Revolut Ltd (“Revolut”).

Miss H’s complaint is about Revolut’s refusal to reimburse her money she says she lost due to a scam.

Miss H is represented by Wealth Recovery Solicitors in this matter. However, where appropriate, I will refer to Miss H solely in this decision for ease of reading.

WHAT HAPPENED

Miss H says she has fallen victim to a cryptocurrency related investment scam. She says fraudsters deceived her into making payments to what she thought was a legitimate investment with Delta-Stocks. The Revolut card payments in question are:

Payment Number	Date	Beneficiary / Merchant	Amount
1	30 January 2024	promarket.academy	£2,499
2	31 January 2024	promarket.academy	£2,917
3	31 January 2024	www.bullmarket.academy	£499
4	21 February 2024	promarket.academy	£10,000

Miss H raised a complaint about the above with Revolut, which she also referred to our Service.

One of our investigators considered the complaint and upheld it in part. In summary, the investigator held that Revolut should have intervened in Payment 4 by providing Miss H with a warning, and had it done so, Revolut could have prevented Miss H’s losses from Payment 4. The investigator asked Revolut to refund Miss H £10,000. Miss H accepted the investigator’s findings, but Revolut did not. Revolut submitted, in short, that Miss H should have carried out more due diligence; and that even if it had provided a warning, there was no guarantee Miss H would have heeded it.

As Revolut did not accept the investigator’s findings, this matter has been passed to me to make a decision.

WHAT I HAVE 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 find that the investigator at first instance was right to reach the conclusion they did. This is for reasons I set out in this decision.

I would like to say at the outset that I have summarised this complaint in far less detail than the parties involved. I want to stress that no discourtesy is intended by this. If there is a submission I have not addressed, it is not because I have ignored the point. It is simply because my findings focus on what I consider to be the central issues in this complaint. Further, under the rules I must observe, I am required to issue decisions quickly and with minimum formality.

In deciding what's fair and reasonable, I am 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.

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 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*".

So Revolut was required by the implied terms of its contract with Miss H and the Payment Services Regulations to carry out their instructions promptly, except in the circumstances expressly set out in its contract, which included where regulatory requirements meant it needed to carry out further checks.

I am satisfied that, to comply with regulatory requirements (including the Financial Conduct Authority's "Consumer Duty", which requires financial services firms to act to deliver good

outcomes for their customers) Revolut should in January 2024 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.

So, Revolut's standard contractual terms produced a result that limited the situations where it could delay or refuse a payment – so far as is relevant to this complaint – to those where applicable regulations demanded that it do so, or that it make further checks before proceeding with the payment. In those cases, it became obliged to refuse or delay the payment. And, I'm satisfied that those regulatory requirements included adhering to the FCA's Consumer Duty.

The Consumer Duty – as I explain below – requires firms to act to deliver good outcomes for consumers.

Whilst the Consumer Duty does not mean that customers will always be protected from bad outcomes, Revolut was required act to avoid foreseeable harm by, for example, operating adequate systems to detect and prevent fraud. The Consumer Duty is therefore an example of a regulatory requirement that could, by virtue of the express terms of the contract and depending on the circumstances, oblige Revolut to refuse or delay a payment notwithstanding the starting position at law described in *Philipp*.

I have taken both the starting position at law and the express terms of Revolut's contract into account when deciding what is fair and reasonable. I am also mindful that in practice, whilst its terms and conditions referred to both refusal and delay, the card payment system rules meant that Revolut could not in practice delay a card payment, it could only decline ('refuse') the payment.

But 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 January 2024 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 do in fact seek to take those steps, often by:

- using algorithms to identify transactions presenting an increased risk of fraud;¹

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

- 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 from October 2023, Revolut operated a process whereby if it identified a scam risk associated with a card payment through its automated systems, it might initially decline to make that payment, in order to ask some additional questions (for example through its in-app chat). If Revolut was satisfied with the response to those questions and/or it provided a relevant warning, the consumer could use the card again to instruct the same payment and Revolut would then make the payment.

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).
- 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 Code², 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).
- Since 31 July 2023, under the FCA’s Consumer Duty³, regulated firms (like Revolut) must act to deliver good outcomes for customers (Principle 12) and must avoid causing foreseeable harm to retail customers (PRIN 2A.2.8R). Avoiding foreseeable

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

³ Prior to the Consumer Duty, FCA regulated firms were required to “pay due regard to the interests of its customers and treat them fairly.” (FCA Principle for Businesses 6). As from 31 July 2023 the Consumer Duty applies to all open products and services.

harm includes ensuring all aspects of the design, terms, marketing, sale of and support for its products avoid causing foreseeable harm (PRIN 2A.2.10G). One example of foreseeable harm given by the FCA in its final non-handbook guidance on the application of the duty was *“consumers becoming victims to scams relating to their financial products for example, due to a firm’s inadequate systems to detect/prevent scams or inadequate processes to design, test, tailor and monitor the effectiveness of scam warning messages presented to customers”*⁴.

- Revolut should also have been aware of the increase in multi-stage fraud, particularly involving cryptocurrency⁵ 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 in January 2024 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 acted to avoid causing foreseeable harm to customers, for example by maintaining adequate systems to detect and prevent scams and by ensuring all aspects of its products, including the contractual terms, enabled it to do so;
- 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

⁴ The Consumer Duty Finalised Guidance FG 22/5 (Paragraph 5.23)

⁵ Keeping abreast of changes in fraudulent practices and responding to these is recognised as key in the battle against financial crime: see, for example, paragraph 4.5 of the BSI Code and PRIN 2A.2.10(4)G.

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 January 2024, Revolut should in any event have taken these steps.

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

Payments 1 to 3

Revolut state that Payment 2 was initially declined due to a lack of strong customer authentication on the merchant's website. However, the transaction was then processed when Miss H confirmed the payee as a 'trusted merchant'. Whilst I have considered this, I am not persuaded that Payments 1 to 3 should have triggered Revolut's fraud detection systems prompting it to intervene. I say this having considered Miss H's Revolut account was newly opened, so there was little activity to measure against; the value of the transactions; and the fact that the payments were not cryptocurrency in nature – or at least they did not have the merchant category code to appear as such.

Payment 4

I am persuaded however that Payment 4 was unusual and out of character. I say this given its significant value – particularly when compared against the value of the previous transactions. Payment 4 was a noticeable spike in spending on Miss H's account and had a significant impact on her balance. Therefore, I would have expected Payment 4 to have triggered Revolut's systems.

Revolut failed to do this.

What kind of intervention should Revolut have carried out?

Given the above aggravating factors, to my mind, there was an identifiable risk. Therefore, I take the view that it would have been reasonable for Payment 4 to have triggered Revolut's fraud detection systems – prompting it to intervene before releasing the transaction to try to protect Miss H from financial harm.

I am mindful of the fact that Payment 4 occurred post the FCA's Consumer Duty. I have taken this together with the aggravating factors present. In doing so, my view is that a proportionate intervention to the risk identified would have been for Revolut to have carried out a human intervention via the in-app chat. That is, Revolut should have questioned Miss H – attempting to establish the specific type of scam at play by asking a series of questions. I am satisfied that the aggravating factors present meant that Payment 4 crossed the threshold from automated written warning to human intervention.

If Revolut had carried out the type of intervention described, would that have prevented the losses Miss H suffered from Payment 4?

I have explained why it would have been reasonable for Payment 4 to have triggered an intervention from Revolut. So, I must now turn to causation. Put simply, I need to consider whether Revolut's failure to intervene caused Miss H's losses. To do this, I need to reflect on whether such an intervention (described above) would have likely made any difference. Having done so, I am persuaded that it would have. I take the view that, on the balance of probabilities, had Revolut intervened, it would have been able to break the fraudsters' spell and prevent Miss H's losses from Payment 4.

I have reached this view for the following reasons.

I have not seen anything to suggest that Miss H would have attempted to mislead Revolut had it intervened in Payment 4. For example, I've not seen anything to suggest that the fraudsters 'coached' Miss H on what to say during an intervention. Therefore, I take the view that it is more likely than not, that had Revolut intervened in Payment 4, Miss H would have been truthful about her intentions.

As I am satisfied that Miss H would have been forthcoming, I have considered how her interaction with Revolut would have played out during an intervention. To my mind, if Miss H informed Revolut that Payment 4 was related to a cryptocurrency investment, it would have quickly become apparent that something was not quite right. I say this because Revolut submit that the merchant category code for the payee linked to Payment 4 was: "*Schools and educational services*". This was inconsistent with the cryptocurrency investment Mrs H believed she was engaged in. For these reasons, I would have expected Revolut to have robustly questioned Miss H about this.

Further, the fraudsters had asked Miss H to make Payment 4 so she could withdraw her investment funds. Had Miss H explained this to Revolut, I have no doubt it would have caused further alarm bells to ring.

Finally, I can see the International Organization of Securities Commissions (IOSCO) published a warning on its website about Delta-Stock from the Autorité des marchés financiers. This was published on 13 February 2024, so eight days before Payment 4. If Miss H had told Revolut the name of the company she was dealing with (Delta-Stock), I would have expected Revolut to have searched it against the IOSCO website. Had Revolut done so, it would have seen the IOSCO warning – thereby causing further concerns.

Taking all the above together, I find that had Revolut intervened in Payment 4 to try to protect Miss H from financial harm (in the way described above): it is likely this would have been successful. To my mind, there were enough concerning factors to prompt Revolut to question Miss H and provide her with relevant warnings, which she would have likely heeded. It follows that Revolut missed an opportunity to prevent Miss H's losses from Payment 4.

Is it fair and reasonable for Revolut to be held responsible for Miss H's losses?

The fact that the money used to fund the scam came from elsewhere does not alter that fact and I think Revolut can fairly be held responsible for Miss H's losses 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 H has only complained against Revolut regarding the payments in question. 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 H could instead, or in addition, have sought to complain against those firms. But Miss H has not chosen to do that and ultimately, I cannot compel her to. In those circumstances, I can only make an award against Revolut.

I'm also not persuaded it would be fair to reduce Miss H'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 H's losses from Payment 4.

Should Miss H bear any responsibility for her 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. Having done so, I am not persuaded that Miss H should bear any responsibility for her losses. I don't find that Miss H's actions fell below the standard expected of a reasonable person in her circumstances. I say this for the following reasons:

- Miss H says she carried out online research about Delta-Stock before investing. From what I can see online, there was not anything significantly concerning about Delta-Stock (before Payment 1) that I would have expected Miss H to take heed of.
- I don't find anything significantly concerning about the fraudsters' communications with Miss H. I find that they presented themselves in a professional manner.
- The Delta-Stock platform looked legitimate, and Miss H says she saw her profits increasing on the platform. I have no doubt these points played a role in placing Miss H further under the fraudsters' spell.
- Given the amount of money Miss H had 'invested' – a promised return of around £35,000 was not, to mind, unrealistic or unreasonable to believe.

Regarding the first bullet, Revolut argue, in summary, "... *rather than overlooking the inexistence of public/ online information, the prudent course of action* [Miss H should have taken] *would have been to ask why such a critical piece of information was missing.*" I do not accept this argument. I would not expect a reasonable person to ask such a question about something that has not caused them any concern.

I acknowledge that the fraudsters asked Miss H to pay a £10,000 fee to withdraw her investment funds. However, having weighed this against the points set out above – particularly the last bullet – I am not persuaded a reasonable person in Miss H's position would have had any significant concerns about the fee. For these reasons, I do not find that Miss H should share any liability for her losses.

Recovery of funds

I have considered whether Revolut acted appropriately to try to recover Miss H funds once the fraud was reported.

Miss H first reported the scam on 17 April 2024. The likelihood that even if prompt action had been taken by Revolut on or immediately after the scam was reported, any of the money concerned would have been successfully reclaimed seems slim. I say this because of the time that had elapsed between Miss H's last Revolut payment and when she reported the scam. In these types of scams, fraudsters tend to withdraw/transfer out their ill-gotten gains immediately to prevent recovery. Further or alternatively, Miss H would not have had any chargeback rights in this matter. For these reasons, I am satisfied that it is unlikely Revolut could have done anything to recover Miss H's funds.

Compensation for distress and/or inconvenience

I have considered whether an award for distress and/or inconvenience is warranted in this matter. Having done so, I am not persuaded that it is. I have not found any errors in Revolut's investigation. Any distress and/or inconvenience Miss H has suffered is a result of the fraudsters' actions – not Revolut's.

Conclusion

Taking all the above points together, I find that Revolut could have done more to protect Miss H from financial harm. In my judgment, this is a fair and reasonable outcome in the circumstances of this complaint.

MY FINAL DECISION

For the above reasons, I uphold this complaint in part and direct Revolut Ltd to pay Miss H:

- £10,000; and
- 8% simple interest per annum on this amount from the date of loss to the date of settlement.

If Revolut Ltd considers that it is required by HM Revenue & Customs to deduct income tax from that interest, it should tell Miss H how much it has taken off. It should also give Miss H a tax deduction certificate if she asks for one, so she can reclaim the tax from HM Revenue & Customs if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss H to accept or reject my decision before 5 June 2025.

Tony Massiah
Ombudsman