

Complaint

Mr S is unhappy that Revolut Ltd didn't refund his losses after he fell victim to an investment scam. Mr S has brought this complaint with the assistance of professional representatives, but for simplicity's sake I've generally referred to Mr S throughout the text of the decision.

Background

In late-2022, Mr S fell victim to an investment scam. He had been searching for investment opportunities when he encountered an online advertisement that appeared to promote a legitimate investment firm. He carried out some research and was persuaded to invest by, amongst other things, positive reviews of the firm that he found online. He began communicating with individuals who said they represented the investment firm. As I understand it, the investment strategy was apparently focused on investing in a mixture of commodities, equities listed on the NASDAQ index and cryptocurrencies. He decided to test the waters by making a small payment of £212. That payment was made from an account he held with a different business.

He later felt comfortable increasing his investments and, at the encouragement of the fraudsters, he opened up an account with Revolut. He transferred funds to that account from his account held with a different bank, which I'll refer to as Bank S. From there, he moved the money into his cryptocurrency wallet and finally into the control of the fraudsters.

Mr S's Revolut account records show the following outbound payments to the scam:

| Date | Amount |
|------------------|------------|
| 18 Oct 2022 | £0.10 |
| 18 Oct 2022 | £2,000 |
| 21 October 2022 | £2,000 |
| 26 October 2022 | £5,000 |
| 4 November 2022 | £9,063.12 |
| 10 November 2022 | £7,724.25 |
| 10 November 2022 | £7,947.44 |
| 17 November 2022 | £12,654.74 |
| 22 November 2022 | £4,995.02 |
| 8 December 2022 | £11,492.65 |
| 15 December 2022 | £3,594.35 |
| 18 January 2023 | £4,145.35 |

One of the transfers Mr S made to his Revolut account required that he have a phone conversation with Bank S. That call took place on 25 October 2022. During the call, Mr S expressed frustration with steps the bank had taken to restrict his account. He explained that he'd moved his account there to avoid the restrictions and controls put in place by a different bank. In that call, a Bank S employee asked Mr S several questions with the aim of identifying commonly occurring scams. I've transcribed a relevant section of that call below:

Bank S: *We have seen a high increase in scams recently, so we just need to go over some questions with you.*

Mr S: *I don't know why, I've only been with you a week ... I was with [another bank] for a long time and the reason I left them was because of stuff like this. I don't feel I need molly coddling or looking after. I'm quite good at that. I can spot a scam a mile off, as a rule. So, I don't need anybody to look after me in that sort of way.*

[...]

Mr S: *Like I say, I've only been with you a week, so I don't know how you could've built up a record of what I do.*

Bank S: *Okay. So, this payment for £4,000, can you just confirm what it was for?*

Mr S: *It's just going to my other account ... Why I decided to leave [another bank], I decided to spread it a bit further afield because I didn't want these sort of controls I'm getting now. I understand why you're doing it, but like I say, that's why I decided to spread the money a bit.*

[...]

Bank S: *Have any third parties or social media recommended Revolut to you?*

Mr S: *No.*

Bank S: *Has anyone told you to lie to the bank or mislead us on what the payments were actually for?*

Mr S: *No, but if I'm lying, it's kind of irrelevant.*

Bank S: *Has anyone told you to lie to us?*

Mr S: *That's a funny question, but the answer is no.*

Bank S: *Have you received any scam calls, texts, emails telling you to move money to a safe account?*

Mr S: *I get scam emails all the time. But like I say, I can spot them. I'm actually thinking of changing my phone. I get a ridiculous amount of scam messages and stuff. I think everybody does.*

Bank S: *But you haven't been told to move money to a safe account?*

Mr S: *No, this is all me.*

Bank S: *Have you been offered any investment opportunity by any third parties?*

Mr S: *Not really. No.*

Bank S: *Have you been told to download any software to your phone or computer for remote access?*

Mr S: *No.*

It's worth noting that, when Mr S told Bank S that he'd fallen victim to a scam, he gave a slightly different version of events. According to the notes taken by Bank S, he looked online and found "*mixed reviews*" of the investment company. Some of those reviews were left by people saying that the investment was a scam. Those notes also suggest Mr S said that he'd allowed the fraudsters remote access to his device to guide him through the process of making payments.

Once Mr S realised that he'd fallen victim to a scam, he complained to Revolut. It didn't agree to refund him. It said it had provided fraud warnings when Mr S was making the payments in question and so it didn't think it had done anything wrong in processing the payments he authorised. It also said it had attempted to recover his funds from the recipient's bank, but that these efforts weren't successful.

Mr S wasn't happy with the response from Revolut and so he referred his complaint to this service. It was looked at by an Investigator who didn't uphold it. Mr S didn't agree with the Investigator's view and so the complaint was passed to me to consider and come to a final decision.

Findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

In broad terms, the starting position at law is that a firm is expected to process payments and withdrawals that a customer authorises, in accordance with the Payment Services Regulations (in this case, the 2017 regulations) and the terms and conditions of the customer's account. However, that isn't the end of the story. Good industry practice required that Revolut be on the lookout for account activity or payments that were unusual or out of character to the extent that they might indicate a fraud risk. On spotting such a payment, I'd expect it to take steps to protect its customer from the risk of financial harm due to fraud. Those steps needed to be proportionate to the risk presented by the payment and strike a balance between protecting customers from fraud and not unduly inconveniencing them.

I'm mindful of the fact that Mr S told Revolut he was opening the account to gain exposure to financial assets. This is indicative of a customer who is comfortable taking on additional investment risk and would reasonably impact Revolut's judgement as to the point at which it needed to intervene. However, there definitely came a point at which an intervention was necessary. I also think the risk would've been sufficiently clear to Revolut that its intervention couldn't be a simple written warning. Mr S should've been directed to interact with Revolut via the chat function in its app.

None of the happened here and so I'm persuaded Revolut did something wrong. However, it doesn't automatically mean it needs to refund Mr S. I can't ask that it do so unless I can reasonably conclude that its error was the cause of his loss. To reach a conclusion on this point, I need to consider what would have happened if it had handled things differently. It ought to have contacted Mr S and asked him about the payments. It should also have given him general guidance about the prevalence and risk of fraud and scams.

I've listened to the phone call with Bank S. I agree with the criticisms that his representatives had made of that call. Bank S could've probed his answers further than it did. I can't know for certain what would've happened if it had done so. However, it's difficult to listen to the call and not draw inferences as to how he would've reacted if Revolut had questioned him.

Even though I accept that Revolut would've known the ultimate destination of his payments (information that wasn't available to Bank S) the call reveals a reluctance to be candid when

asked about the payment, a frustration with measures taken by firms to protect customers from fraud risk and a desire to seek out ways around them - for example, by opening up new accounts with providers that he thinks are less likely to put obstacles in his way.

I'm also mindful of the fact that he told Bank S that he'd seen some online reviews that suggested the company he was investing with was fraudulent, but he proceeded to invest anyway. I think that's an indication that it would've been more difficult to dissuade Mr S from going ahead with the investment than the average customer given that he'd already overlooked a warning that had come to his attention by chance.

I accept I can't know for certain what would've happened if Revolut had intervened, but I think the evidence strongly suggests that it's unlikely Mr S would've attached much significance to any warning it provided to him.

I don't say any of this to downplay or diminish the fact that Mr S has fallen victim to a cruel and cynical scam. I have a great deal of sympathy for him and the position he's found himself in. However, my role is limited to looking at the actions and inactions of Revolut and I'm satisfied its error wasn't the cause of his losses here.

Final decision

For the reasons I've explained above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 10 December 2024.

James Kimmitt
Ombudsman