

The complaint

Mr L complains that Revolut Ltd won't reimburse money he lost as a result of a scam.

What happened

On 29 November 2024, I issued my provisional decision on this complaint. I wanted to give both parties a chance to submit any further evidence and arguments before I issued my final decision. That provisional decision forms part of this final decision and is copied below.

What happened

Mr L became involved in a cryptocurrency investment scam. He says that his involvement started after watching an online video promoting the scheme, which promised guaranteed returns from A.I. forex trading.

That scheme – which I'll refer to as P – claimed to be regulated in several different countries. Between 3 March and 4 June 2022 Mr L made payments toward the scheme from his account at two other regulated firms – "S" and "N" and his account at Revolut. He received a single return of £51.58 on 12 March 2022. Most of the payments from his Revolut account went to a cryptocurrency account held in his own name, before being converted to cryptocurrency and sent to the fraudulent trading platform. In total Mr L lost around £30,000. Mr L's testimony is that he realised that he'd been scammed when the fraudsters began to trade in cryptocurrency on his behalf – something that he had not given them permission to do.

Almost a year after his final payment to the scheme, Mr L reported the matter to Revolut and asked it to reimburse him. Revolut declined his claim and he referred the matter to our service.

One of our investigators considered Mr L's complaints about Revolut, S and N. The investigator thought that Revolut should have questioned Mr L about one of the payments he was making. To decide whether such an intervention would have prevented Mr L's loss, the investigator reviewed a call between S and Mr L which happened around the same time. Initially our Investigator thought that during the call between Mr L and S, he was misleading in his responses, as well as being generally combative. However, the Investigator later revised their view and argued that Mr L had been generally honest in his responses, but S' advisor had failed to provide an adequate warning. So, our investigator recommended both S and Revolut partially reimburse Mr L. S agreed and that matter is now resolved.

Revolut didn't agree with that assessment. It argued, among other things, that our investigator's view appeared to contradict their earlier assessment. Mr L accepted the revised assessment.

What I've provisionally 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.

In broad terms, the starting position at law is that an Electronic Money Institution ("EMI") such as Revolut is expected to process payments and withdrawals that a customer authorises it to make, in accordance with the Payment Services Regulations (in this case the 2017 regulations) and the terms and conditions of the customer's account.

But, taking into account relevant law, regulators rules and guidance, relevant codes of practice and what I consider to have been good industry practice at the time, I consider it fair and reasonable in March 2022 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 including in relation to card payments);*
- 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.*

While I'm aware there are a number of aspects of our Investigator's view that Revolut disagrees with, I'm going to deal primarily with what I think is the point on which the outcome of this case turns – whether a better intervention by Revolut would have stopped the scam.

Briefly, I agree with the investigator that by the time Mr L made the £7,000 payment on 12 March 2022, the nature and pattern of transactions that debited Mr L's account warranted additional scrutiny, specifically a human intervention (for example, through Revolut's in-app chat). The possibility that Mr L was at risk of financial harm from fraud ought to have been apparent at this point given the size of that payment and those which had come before it.

I don't entirely discount the warnings Revolut did provide, one of which was tailored to investment scams and mentioned some common features that were present in Mr L's circumstances. However, I think that the risk the transaction presented meant that Revolut needed to go further than providing a static warning – it should have attempted to establish the circumstances surrounding the payment (and not just the reason for it) before allowing the payment to go ahead.

The best evidence of how an intervention by Revolut might have played out is the call between Mr L and S that took place five days before.

I accept that during that call Mr L broadly set out a set of circumstances that ought to have given S significant cause for concern and that he was largely open about his reasons for making that payment. Mr L explained that he was trading in foreign exchange, using a piece of trading platform software (though he did not give the name of P) and was buying cryptocurrency.

But it's also accepted that Mr L was very combative during that call and that he expressed considerable confidence in what he was doing and that he was not falling victim to a scam.

S' advisor, though mentioning cryptocurrency scams, failed to completely understand or convey the key risk here: a trading account investment scam.

So, my starting point must be that Mr L would have likely been honest about what he was doing and would have described a set of circumstances that Revolut should have found to be concerning. A reasonable intervention by Revolut might have also uncovered that the scheme was offering wholly unrealistic returns (1-2.5% per day).

That information ought reasonably to have led Revolut to have provided a clear warning about the risk of trading account investment scams describing a set of circumstances which to some extent matched the ones Mr L found himself in.

However, I also need to consider how Mr L would have reacted to such a warning. As I've already mentioned, the evidence I do have points to someone who is self-confident in his actions, unhappy about enquiries being made into his affairs, mistrustful of S and its intentions, convinced by the legitimacy of the scheme and generally not receptive to S' warnings. And I don't think that Mr L held Revolut in any higher regard than S – he used abusive and derogatory language to its staff in April 2022 when his account was closed.

I've also thought about the extent to which Mr L would have recognised his own circumstances in any such warning. While on the face of it, this scam might appear to have all the hallmarks of a typical trading scam, my review suggests that it was actually somewhat more sophisticated, may have had elements of a Ponzi scheme and multi-level marketing and was likely far longer lasting than other scams of this nature.

Brief excerpts of the conversation between Mr L and the fraudster show that they shared with him an online video promoting the platform (that video was in another language that I understand Mr L speaks as he communicated with the fraudster using it). It appears that those videos (or similar ones) are still online. I've watched some of those similar videos and the presenters spend some time dismissing claims that they are operating fraudulently by highlighting the alleged regulatory status of P – including registrations with two overseas government agencies. It's apparent that Mr L has heard these claims as he cites the apparent regulation of P by the Australian Securities and Investment Commission ("ASIC") and the Financial Transactions and Reports Analysis Centre of Canada ("FINTRAC") in his complaint submission.

Mr L's representatives suggest that P was simply a clone of another firm. It points to a warning issued by the Financial Conduct Authority for a firm with a similar name. But I can't see any connection between that firm and P (they have different names and don't share contact details).

My research indicates that P probably did register with ASIC and FINTRAC – though it does not appear those registrations mean it had any sort of regulated status of any kind and seem to be little more than demonstrating that a company had been incorporated. Various warnings issued by international regulators support this view, for example the Ontario Securities Commission issued a warning about P in February 2022 which gave P's address as the same one listed on FINTRAC's 'Money Services Business Registry'.

The point of highlighting this is not to suggest that P was in anyway operating legitimately, but rather it had taken considerably more steps than is typical to give that impression. As I've also mentioned, it appears that the scam was fairly long lasting, involved many victims from multiple countries (Mr L says the scheme had over 300,000 'members' in his submissions), had a fairly slick online presence, had elements of multi-level marketing and may have been a Ponzi scheme.

Taking all of this together, I think it would have been much harder for any warning by Revolut in a fairly short interaction to have been impactful and prevented Mr L's loss in circumstances where Mr L was not receptive to warnings and confident in his actions. I think it would have taken some digging by Revolut and some co-operation from Mr L to have unearthed the superficiality of P's claims to legitimacy. I don't think that the former was proportionate or the latter was forthcoming. Overall, while I don't doubt that Mr L has fallen victim to a cruel scam, I can't say that Revolut's failure to provide a better warning has caused his loss.

Finally, I've thought about whether Revolut should have done more to recover Mr L's funds. Most of the payments went to Mr L's own cryptocurrency account with a third party, before being converted into cryptocurrency and sent to the fraudster. In those circumstances, no recovery was possible. One of the payments went directly to an account likely controlled by the fraudster. But given the delay in reporting the matter, I can't see that there would be any realistic chance of recovery.

My provisional decision

For the reasons I've explained my provisional decision is that I don't uphold this complaint.

Revolut didn't respond to my provisional decision. Mr L's representatives said they wouldn't be pursuing the complaint, but Mr L said he didn't agree with my findings. In summary, he said:

- He sounded confident in his conversations with S because he had carried out due diligence and was convinced by the legitimacy of the investment scheme, which was elaborate and sophisticated.
- At the point he spoke to S he'd invested a smaller sum of money, which he could tolerate losing. But, when he spoke to Revolut he was investing significantly more money, which he'd borrowed. Because of this, he'd have been more likely to listen to a warning provided by Revolut.
- The focus of my decision should be on the fact that Revolut failed to comply with the requirements of the PSR, rather than the probability of him continuing with the payments in light of a warning.
- He accepts that his conduct in communicating with S and Revolut didn't help, but he feels like he was 'assessed negatively' due to this. The language he used towards Revolut was not aimed at their staff – he was frustrated at his account being closed without explanation.
- S took accountability by following the PSR and CRM Code, Revolut should do the same.

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.

While I know this will be very disappointing for Mr L, having considered his further submissions carefully, I'm not persuaded to change my mind. I'll explain why.

Revolut isn't a signatory to the CRM Code and the events here pre-date the Payment Service Regulator's ("PSR") Faster Payment Reimbursement Rules. So, I can't take either into account. Instead, as I've set out above, I need to consider whether a better intervention by Revolut would have prevented the scam.

I remain of the view that the best evidence of how such an intervention might have played

out is the call Mr L had with S. And, while I accept Mr L had more to lose by 12 March 2022, I'm not persuaded that factor alone would have led him to have a significantly different attitude towards an intervention. I've seen nothing to suggest that Mr L's confidence in the scheme and its legitimacy had diminished over the few days between the call with S and 12 March 2022.

I accept that the scam was sophisticated and the fraudsters had gone to somewhat unusual lengths to convince people of its legitimacy. But it's in large part because of that sophistication that it would have been more difficult for Revolut to establish that Mr L was falling victim to a scam and to convince him of that fact. I also haven't treated Mr L less favourably simply because of his conduct during the call with S or his later communication with Revolut, but I am satisfied that this conduct would have made it more difficult for Revolut to persuade him to stop making the payments.

My final decision

For the reasons I've explained, I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 16 January 2025.

Rich Drury
Ombudsman