

## The complaint

Miss P is unhappy that Revolut Ltd won't reimburse money she lost to a scam.

## What happened

On 10 January 2025 I issued my provisional decision on this complaint. I wanted to give both parties a chance to provide 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*

*Miss P fell victim to a cryptocurrency investment scam. She responded to an advert online and was contacted by an 'academy' offering to help teach her to trade cryptocurrency. She says she was subsequently passed onto a separate firm that would actually help her trade cryptocurrency. She was told that in order to invest she'd need to open and pay money to a Revolut account from her current account and then transfer it to two different cryptocurrency platforms. Between August and September 2022, the fraudsters encouraged her to invest increasingly large sums of money. After Miss P asked to withdraw some money, the fraudsters said she'd lost all her funds as a result of unsuccessful trades. Miss P reported the matter to Revolut and her current account provider – "L". Both declined to reimburse her, so she referred complaints about each to our service.*

*The payments from her Revolut account are set out below:*

<i>Date</i>	<i>Amount</i>	<i>Recipient</i>
<i>24 August 2022</i>	<i>£497.48</i>	<i>Cryptocurrency exchange 1</i>
<i>25 August 2022</i>	<i>£380.34</i>	<i>Cryptocurrency exchange 1</i>
<i>30 August 2022</i>	<i>£4,000</i>	<i>Cryptocurrency exchange 2</i>
<i>8 September 2022</i>	<i>£3,500</i>	<i>Cryptocurrency exchange 2</i>
<i>13 September 2022</i>	<i>£11,000</i>	<i>Cryptocurrency exchange 2</i>
<i>15 September 2022</i>	<i>£10,000</i>	<i>Cryptocurrency exchange 2</i>
<i>21 September 2022</i>	<i>£10,000</i>	<i>Cryptocurrency exchange 2</i>
<i>Total</i>	<i>£39,377.82</i>	

*Our investigator upheld in part her complaint against L. They thought L should have been concerned about an £11,000 payment that took place on 13 September 2022 (and funded the corresponding payment on the same day from her Revolut account) and should have questioned Miss P about it. Had they done so, the Investigator argued, the scam would have come to light and her loss would have been prevented. However they also thought that Miss P should bear some responsibility for what happened, so they suggested L reimburse half the money it should have prevented leaving Miss P's account. L and Miss P agreed and that complaint is now settled.*

*Following the complaint against L, the Investigator considered whether Revolut should also be responsible for some of Miss P's loss. They thought that Revolut should have done more*

*to prevent the scam, but that Miss P had already received fair reimbursement from L, so they didn't ask Revolut to pay anything further.*

*Miss P accepted that she had a role to play in what happened but thought that Revolut should fairly share some of the responsibility too. So the complaint was passed to me for a decision.*

*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.*

*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 P 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.*

*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 August 2022 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 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.*

*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 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*

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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/)

<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.

*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 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.*

*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 August 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); 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*

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

consumers, when deciding whether to intervene.

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

Miss P opened a Revolut account for the purpose of this scam, so Revolut had no genuine account activity to compare the scam-related activity against.

The first two payments were relatively modest in value and while payments 3 and 4 were more substantial they were relatively spread out. I don't think that a sufficiently concerning pattern of transactions had developed up to this point. But when Miss P made an £11,000 card payment to a well-known cryptocurrency provider on 13 September 2022, I think Revolut should have been concerned. By that point, Miss P was attempting to send over £18,000 to a cryptocurrency provider in just a couple of weeks and the £11,000 payment represented a significant increase in value on previous payments.

Revolut didn't provide any warnings and neither did L. I think it should have done. And having thought carefully about the risk the 13 September 2022 payment presented, I think a proportionate response to that risk would be for Revolut to have attempted to establish the circumstances surrounding the payment before allowing it to debit Miss P's account. I think it should have done this by, for example, directing Miss P to its in-app chat to discuss the payment further.

If Revolut had provided a warning of the type described, would that have prevented the losses Miss P suffered from the 13 September 2022 payment onwards?

Miss P has provided somewhat limited evidence of her interactions with the fraudster. I've seen messages from October 2022, which show her pleading with the fraudster for her money back. My impression from these messages is that the fraudster has told Miss P that she's lost her money to bad trades (which is consistent with Miss P's testimony). Miss P says that she deleted the rest of the messages because she was upset about what happened.

Those messages don't cover the relevant period including 13 September 2022, so I don't have a huge amount of contemporaneous evidence to demonstrate how Miss P might have reacted to a warning. Nevertheless, neither L or Revolut can show it did warn, or attempt to warn, Miss P and there's no evidence that Miss P would have misled Revolut or not been open with it about the purpose of the payment.

And, had she been honest with it (as I think is more likely than not), Revolut ought to have been able to identify the hallmarks of a very common cryptocurrency scam – an advert found online, the provision of a trading account, the role of a broker or account manager and pressure to invest significant sums after a small initial deposit appeared to increase in value. I think Revolut ought to have given a warning that made it very clear that Miss P was falling victim to a scam and, in those circumstances, I don't think that she would have gone ahead with the payment on 13 September 2022.

Should Miss P bear any responsibility for her loss?

I've also considered whether Miss P should bear any responsibility for her loss. In doing so, 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.

It's evident that Miss P was a very inexperienced investor – she hadn't, for example, heard of the FCA and didn't understand how to check the legitimacy of the investment platform. I can also understand how the trading platform and account manager all gave credence to the

*legitimacy of the scheme. She says that she was provided with the 'license' of the investment company which further proved the legitimacy of the scheme.*

*However, Miss P told our Investigator that she only ever wanted to invest small sums of money but was put under considerable pressure to invest more. She also told the fraudsters that she wouldn't trust them until she was able to withdraw some funds from the platform. But Miss P wasn't able to withdraw any money and says she was strongly encouraged not to – as that would harm the attempts to 'build the account'.*

*Miss P has also told us that on at least one occasion she was told that due to a misunderstanding a trade had resulted in a significant loss and that she needed to put money into the account to save it, which she did.*

*While the limited messages that Miss P has provided support some of what she's told us, they don't give a full picture of what happened. And, understandably due to the passage of time, Miss P hasn't been able to provide a detailed account of the circumstances surrounding each payment.*

*What I can see is that following the £11,000 card payment on 13 September 2022, Miss P made further payments totalling £20,000 in the following week. This was a dramatic escalation in the amounts being invested in the scheme. She'd only sent around £8,000 before the 13 September 2022 payment.*

*Taking this, and what Miss P has told us, into account, I'm provisionally minded to conclude that the payments from and including the £11,000 card payment on 13 September 2022 were made in circumstances where Miss P had concerns about being asked to invest far more than she intended, about being pressured to invest and without having been able to withdraw any funds (which by her own account, was a condition of her trusting the investment company).*

*I don't wish to blame Miss P for what happened and I recognise that she has been the victim of a cruel scam but, on balance, I'm provisionally minded to conclude that the £11,000 payment on 13 September is the point at which Miss P should have conducted some further enquiries about the scheme and there should be a deduction from the amount reimbursed from that point. Weighing up the fault of all parties, I think that Miss P should receive 66% of her loss from and including the 13 September 2022 payment. Miss P has already received 50% of that loss from L, so I think Revolut should pay the remaining 16%. I calculate this figure to be £4,960.*

*Finally, for completeness, I've considered whether Revolut could have recovered Miss P's funds. As she sent money to a cryptocurrency platform before sending an equivalent amount to the fraudsters, there was no prospect of recovery.*

*My provisional decision*

*I've provisionally decided that Revolut Ltd should:*

- Reimburse 16% of the payments after and including the 13 September 2022 payment - £4,960*
- Pay 8% simple interest on that amount from the date of each payment to the date of settlement*

*Revolut didn't respond to my provisional decision. Miss P said that although she'd like to receive full reimbursement, she was prepared to accept the provisional decision.*

## **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.

As neither party has made any further submissions, my final decision is unchanged from my provisional findings set out above.

## **My final decision**

I uphold this complaint in part and instruct Revolut Ltd to pay Miss P:

- 16% of the payments after and including the 13 September 2022 payment – a total of £4,960
- 8% simple interest on that amount from the date of each payment to the date of settlement<sup>4</sup>

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss P to accept or reject my decision before 24 February 2025.

Rich Drury  
**Ombudsman**

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<sup>4</sup> If Revolut considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Miss P how much it's taken off. It should also give Miss P a tax deduction certificate if she asks for one, so she can reclaim the tax from HM Revenue & Customs if appropriate.