

The complaint

Mr D complains that Revolut Ltd didn't do enough to protect him from the financial harm caused by an investment scam, or to help him recover the money once he'd reported the scam to it.

What happened

The detailed background to this complaint is well known to both parties. So, I'll only provide a brief overview of some of the key events here.

Mr D saw an advert with a celebrity endorsement on social media for an opportunity to invest in cryptocurrency with a company I'll refer to as "E". He clicked on the link and completed an online contact form and was contacted shortly afterwards by someone I'll refer to as "the scammer" who said he could make returns every month of around 20%.

Mr D did some basic research and didn't find anything negative, so he decided to go ahead with the investment. The scammer told him to open an account on the trading platform which would allow him to log in and view his trades. He also told him to download AnyDesk remote access software to his device and to first purchase cryptocurrency through a cryptocurrency exchange company and then load it onto an online wallet. Mr D funded the account with payments from Bank R, and between 13 February 2023 and 10 July 2023, he made thirteen debit card payments to four different cryptocurrency exchanges totalling £54,011.36. He also exchanged £20,572 to cryptocurrency on the Revolut platform and made four cryptocurrency withdrawals. Some of the payments were funded by a loan that Mr D took from "A", giving the loan purpose as 'home improvement'.

Mr D realised he'd been scammed when he was unable to withdraw his funds. He complained to Revolut, but it refused to refund any of the money he'd lost. It said it launched a request to freeze and retrieve the funds from the fraudulent account, but the recovery attempt failed. It also launched chargeback claims, but they were rejected because the payments were money transfers and once the money was deposited to the beneficiary account, the service was considered provided. It also said Mr D had been notified that cryptocurrency withdrawals are irreversible.

Mr D wasn't satisfied and so he complained to this service with the assistance of a representative who argued that the payments were out of character because he was making large payments to new cryptocurrency payees that significantly exceeded the previous spending on this account, and the account was nearly drained multiple times. They said Revolut should have questioned Mr D about the payments and had it done so it would have identified that they were being sent on to a third-party broker, he'd downloaded AnyDesk, he'd been promised unrealistic returns, and found the investment through a celebrity endorsed advert on social media.

Responding to the complaint, Revolut said the payments were authenticated via 3DS and the account was newly created, so there was no account history to compare the payments with.

It said the cryptocurrency withdrawals weren't reversible and chargeback requests for the card payments were rejected because once the money was deposited to the beneficiary account, the service was considered provided and as described.

It said Mr D didn't do appropriate due diligence, explaining he made cryptocurrency withdrawals to unknown third-party wallets having received warnings that they would be irreversible, he should have known the promise of regular monthly returns was unrealistic, and if he'd done some basic research, he'd have found negative information about E. It also said Mr D applied for a loan and used savings, which is a major red flag, and its likely he gave misleading information on the loan application.

It also argued that for this service to effectively apply the reimbursement rules to self-to-self transactions is an error of law. Alternatively, we have irrationally failed to consider the fact that the transactions are self-to-self and therefore obviously distinguishable from transactions subject to the regulatory regime concerning APP fraud. And it is irrational (and illogical) to hold it liable for customer losses in circumstances where it is merely an intermediate link, and there are typically other authorised banks and other financial institutions in the payment chain that have comparatively greater data on the customer than Revolut, but which the FOS has not held responsible in the same way as Revolut.

It also cited the Supreme Court's judgement in *Philipp v Barclays Bank UK plc* [2023] UKSC 25 where the Court held that in the context of APP fraud, where the validity of the instruction is not in doubt, 'no inquiries are needed to clarify or verify what the bank must do. The bank's duty is to execute the instruction and any refusal or failure to do so will prima facie be a breach of duty by the bank'.

Our investigator thought the complaint should be upheld. He thought Revolut should have intervened when Mr D made the third payment for £5,000, because it was a large payment to a cryptocurrency merchant. He explained that a proportionate response would have been to provide a warning that was specific to cryptocurrency investment scams, and he thought this would have resonated with Mr D because the investment had the common hallmarks of a scam including the fact he'd seen an advertisement with a celebrity endorsement on social media, he was sending funds to third-party wallets, the returns were unrealistic, and he was trading with an unregulated broker.

Our investigator was satisfied that a tailored warning would have prompted Mr D to pause and research the investment further before making any payments, and had he done so he'd have discovered he was being scammed and decided not to make any further payments. He thought Revolut should refund the money Mr D had lost and he didn't think the settlement should be reduced for contributory negligence. He accepted were several features of the scam that would have appeared convincing, and he noted Mr D had checked E's website and he was motivated by the apparent success of the initial deposit.

He noted Mr D had said the loan application was for home improvements, but he accepted the scammer had guided him through the process. And he explained the adverse information about E post-dated the initial payment, and he wouldn't have expected him to do the same research after the date of the first payment. So, he didn't think Mr D had contributed to this own loss.

Finally, he was satisfied a chargeback claim wouldn't have been successful because Mr D would have received a service from the cryptocurrency exchange. He also explained we don't have jurisdiction to consider the cryptocurrency withdrawals and Mr D wasn't entitled to any compensation.

Revolut has asked for the complaint to be reviewed by an Ombudsman. It argued that the cryptocurrency platforms were the final stage before Mr D sent the funds to the scam platform and subsequently lost control of the funds, so the fraudulent activity didn't occur on the Revolut platform.

It explained that at the time of the transactions, it was Electronic Money Institute (EMI) and typically, this type of account is opened and used to facilitate payments of a specific purpose and often not used as a main account. So, the type of payments being made were not out of character nor unexpected with the typical way in which an EMI account is used. It cited *R (on the application of Portal Financial Services LLP) v FOS* [2022] EWHC 710 (Admin), arguing that it's relevant to consider possible other bank interventions, as the funds that originated with Revolut came from Mr D's own external bank account.

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 conclusion as our investigator. And for largely the same reasons.

Jurisdiction

Our service can consider a wide variety of complaints about financial services, but we can't consider all the matters referred to us. The Dispute Resolution Rules (DISP) set out the complaints that fall within our remit and are found in the Financial Conduct Authority's (FCA) handbook. Mr D's complaint arises from her customer relationship with a UK based firm, which is regulated by the FCA. But there are other factors which affect whether our service can consider a complaint – and DISP includes limits on the activities we can review.

According to the rules, we can consider a complaint under our Compulsory Jurisdiction if it relates to an act or omission by a firm in carrying on one or more of the activities listed under DISP 2.3. Having reviewed those activities, I've decided we can't look into the part of Mr D's complaint which relates to the transfer or withdrawal of cryptocurrency from the Revolut platform. I hope the below explanation of why is helpful.

Mr D had an account with Revolut which allowed him to trade in cryptocurrency. But the operation of cryptocurrency services isn't currently a regulated activity, or one that's listed under DISP 2.3 – so we aren't able to look into complaints about it. Cryptocurrency isn't electronic money or 'fiat currency' according to the FCA – instead it classifies cryptocurrency, and similar crypto-assets, as 'exchange tokens'. So, while Revolut is also a Payment Services provider, the withdrawal of cryptocurrency doesn't concern e-money or a payment account – and so doesn't fall under our remit as being about a payment service.

However, our service can look into complaints about activities that are ancillary to the ones covered by us (those listed under DISP 2.3). The steps leading up to the transfer/withdrawal of cryptocurrency also includes both the acceptance of funds into Mr D's account and then a subsequent request for Revolut to exchange fiat money into cryptocurrency.

For the reasons I've given, our service doesn't have the remit to consider the element of Mr D's complaint which relates to the transfer/withdrawal of cryptocurrency from the Revolut platform. But I am satisfied that the earlier steps amount to payment services, and in the case of the exchanges, at the very least an activity which is ancillary to payment services. Given the broad nature of this complaint, I'm satisfied that the exchange to cryptocurrency is an activity our service can consider.

Prevention

There's no dispute that this was a scam, but although Mr D didn't intend his money to go to scammers, he did authorise the disputed payments. Revolut is expected to process payments and withdrawals that a customer authorises it to make, but where the customer has been the victim of a scam, it may sometimes be fair and reasonable for the bank to reimburse them even though they authorised the payment.

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 February 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 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;
- 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.

I've thought about whether Revolut could have done more to prevent the scam from occurring altogether. Buying cryptocurrency is a legitimate activity and from the evidence I've seen, the payments were made to genuine cryptocurrency exchange companies. However, Revolut ought to fairly and reasonably be alert to fraud and scams and these payments were part of a wider scam, so I need to consider whether it ought to have intervened to warn Mr D when he tried to make the payments. If there are unusual or suspicious payments on an account, I'd expect Revolut to intervene with a view to protecting him from financial harm due to fraud.

The payments didn't flag as suspicious on Revolut's systems. The first two payments were relatively low value payments to a legitimate cryptocurrency merchant and so I wouldn't have expected Revolut to intervene. But payment three on 22 February 2023 was for £5,000 to a cryptocurrency merchant from a newly opened account and so I agree with our investigator that Revolut ought to have intervened and that a proportionate response would have been

for it to have shown Mr D a written warning that was tailored to cryptocurrency investment scams.

I've thought carefully about whether a specific warning covering off the key features of cryptocurrency investment scams would have likely prevented any further loss and, on balance, I think it would have. There were several key hallmarks of common cryptocurrency investment scams present, such as finding the investment through an advertisement endorsed by a public figure, being assisted by a broker, and being asked to download remote access software. I haven't seen any evidence that Mr D was asked to disregard any warnings, and Bank R has confirmed that it didn't present Mr D with any warnings about cryptocurrency investment scams.

On balance, had Revolut provided Mr D with an impactful warning that gave details about cryptocurrency investment scams and how he could protect himself from the risk of fraud, I believe it would have resonated with him and he could have paused and looked more closely into the scammer before proceeding, as well as making further enquiries into cryptocurrency scams and whether or not the scammer was regulated in the UK or abroad. I'm satisfied this would have stopped the scam.

Revolut has addressed an Administrative Court judgment, which was referred to in a decision on a separate complaint. As I have not referred to or relied on that judgment in reaching my conclusion in relation to the losses for which I consider it fair and reasonable to hold Revolut responsible, I do not intend to comment on it. I note that Revolut is asking me to consider all of the facts of the case before me when considering what is fair and reasonable, including the role of all the other financial institutions involved, and I am satisfied that this has been done.

Contributory negligence

There's a general principle that consumers must take responsibility for their decisions and conduct suitable due diligence, and, in the circumstances, I don't think Mr D was to blame for the fact he didn't foresee the risk.

I agree the returns were unrealistic, but in recent years instances of individuals making large amounts of money by trading in cryptocurrency have been highly publicised to the extent that I don't think it was unreasonable for Mr D to have believed what he was told by the broker in terms of the returns he was told were possible, notwithstanding the fact it was highly implausible.

I note that Mr D lied about the purpose of the loan, but I don't consider this means he contributed to his own loss because this wasn't an attempt to mislead a bank with a view to sidestepping security systems, and it didn't impair Revolut's ability to prevent his loss. Revolut has argued that there was negative information available online about E, but this post-dated the first payment, and I wouldn't expect Mr D to have repeated any searches he'd already done once he'd satisfied himself the investment was genuine. The same applies for the FCA warning dated 4 July 2023.

Mr D hadn't invested in cryptocurrency before and so this was an area with which he was unfamiliar. He wouldn't have known the returns were unrealistic or how to check the information he'd been given, and he wouldn't have known that a celebrity endorsement or being asked to download AnyDesk was a red flag for fraud without being warned about it by Revolut. This unfamiliarity was compounded by the sophisticated nature of the scam, the fact he trusted the scammer and the fact he believed the trading platform was a genuine reflection of the balance in his trading account. So, I don't think he can fairly be held responsible for his own loss.

Recovery

I don't think there was a realistic prospect of a successful recovery because Mr D paid accounts in his own name and moved the funds onwards from there.

Mr D's own testimony supports that he used cryptocurrency exchanges to facilitate the card payments. It's only possible to make a chargeback claim to the merchant that received the disputed payments. It's most likely that the cryptocurrency exchanges would have been able to evidence they'd done what was asked of them. That is, in exchange for Mr D's payments, they converted and sent an amount of cryptocurrency to the wallet address provided. So, any chargeback was destined fail, therefore I'm satisfied that Revolut's decision not to raise a chargeback request was fair.

Compensation

The main cause for the upset was the scammer who persuaded Mr D to part with his funds. I haven't found any errors or delays to Revolut's investigation, so I don't think he is entitled to any compensation.

My final decision

My final decision is that Revolut Ltd should:

- refund the money Mr D lost from the third payment onwards, including the value of all
- cryptocurrency withdrawals from Revolut in their equivalent value in GBP on the date of the loss, Plus, any fees incurred in making these transactions.
- pay 8% simple interest*, per year, from the respective dates of loss to the date of settlement.
- For £30,000 of the settlement (the equivalent of the loan amount), Revolut should pay the loan interest of 10.6%.

*If Revolut Ltd deducts tax in relation to the interest element of this award it should provide Mr D with the appropriate tax deduction certificate.

Your text hereUnder the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 28 April 2025.

Carolyn Bonnell
Ombudsman