

The complaint

Mrs Y complains that Revolut Ltd won't refund the money she lost when she was the victim of a scam.

What happened

In August 2022, Mrs Y's ex-husband told her about an investment company he had been successfully investing with. He said he had been investing for several months and receiving good returns. So Mrs Y contacted the investment company and agreed to invest herself as well.

Mrs Y was given access to the investment company's trading platform, where she could see the deposits she had made and the profit it said she was making. And she was shown how to send money from an account she held with another bank to her Revolut account, and then use it to purchase cryptocurrency which she would send on to the platform.

I've set out the payments Mrs Y made out of her Revolut account below:

Date	Amount
11 August 2022	£7,000
11 August 2022	£3,000
19 August 2022	£5,000
20 August 2022	£10,000
8 September 2022	£20,000
9 September 2022	£20,000
12 September 2022	£10,000
22 September 2022	£1,000
30 September 2022	£20,000
3 October 2022	£20,000
4 October 2022	£10,000
20 October 2022	£20,000
20 October 2022	£20,000
21 October 2022	£10,000

Unfortunately, we now know the investment company was a scam. The scam was uncovered after Mrs Y asked to withdraw the profit the platform showed she had made, but was told she had to pay a large amount in before she could do so. Mrs Y then realised she had been the victim of a scam and reported the payments she had made to Revolut.

Revolut investigated but said it had shown Mrs Y a warning before she made the payments and wasn't at fault for processing the payments she had authorised. So it didn't agree to refund any of the money she had lost. Mrs Y wasn't satisfied with Revolut's response, so referred a complaint to our service.

One of our investigators looked at the complaint. They thought Revolut should have had concerns when Mrs Y made the first payment here, and done more to protect her before

allowing the payment to go through. They also thought it would be fair for Mrs Y, and the other bank the money was originally sent from, to share responsibility for her loss. So they recommended Revolut refund 33% of the money Mrs Y lost. Revolut disagreed with our investigator, so the complaint has been passed to me.

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.

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 Mrs Y 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"*.

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

Whether or not Revolut was required to refuse or delay a payment for one of the reasons set out in its contract, the basic implied requirement to carry out an instruction promptly did not

in any event mean Revolut was required to carry out the payments immediately¹. Revolut could comply with the requirement to carry out payments promptly while still giving fraud warnings, or making further enquiries, prior to making the payment.

And, I am satisfied that, taking into account longstanding regulatory expectations and requirements and what I consider to have been good industry practice at the time, Revolut should from August 2022 fairly and reasonably 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 (irrespective of whether it was also required by the express terms of its contract to do so).

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 to identify transactions presenting an increased risk of fraud²;
- 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.

In reaching my conclusions about what Revolut ought fairly and reasonably to have done, 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)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

¹ The Payment Services Regulation 2017 Reg. 86 states that “the payer’s payment service provider must ensure that the amount of the payment transaction is credited to the payee’s payment service provider’s account **by the end of the business day following the time of receipt of the payment order**” (emphasis added).

² 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/

³ 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.

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 Code⁴, 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.

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 from 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 consumers, when deciding whether to intervene.

Should Revolut have recognised that Mrs Y was at risk of financial harm from fraud?

⁴ BSI: PAS 17271: 2017 "Protecting customers from financial harm as result of fraud or financial abuse"

I'm satisfied Revolut ought to have recognised that Mrs Y was at heightened risk of financial harm from fraud when she tried to make the first payment here, for £7,000 on 11 August 2022. This payment was for a significant amount. It was made to a cryptocurrency exchange, when Mrs Y hadn't indicated that her account would be used for cryptocurrency when she opened it with Revolut. And it was funded by several payments into the account immediately beforehand, totalling the exact amount of the payment – which is a pattern of behaviour often seen when customers are falling victim to a scam.

And so I think Revolut should have recognised that Mrs Y was at risk of financial harm from fraud when she tried to make this first payment.

What did Revolut do to warn Mrs Y?

Revolut says it provided a warning to Mrs Y before she made the first payment here. The warning was displayed when she was creating the new payee for the payment, and said:

“Do you know and trust this payee?”

If you're unsure, don't pay them, as we may not be able to help you get your money back. Remember, fraudsters can impersonate others, and we'll never ask you to make a payment.”

But while this warning does mention the possibility of fraud and the difficulty of recovering money once it is sent, I think it is vague and general and didn't relate to the specific circumstances Mrs Y found herself in. So I don't think this warning was a proportionate response to the risk I think Revolut should have identified from this payment.

What kind of warning should Revolut have provided?

I've thought carefully about what a proportionate warning in light of the risk presented would be in these circumstances. In doing so, I've taken into account that many payments that look very similar to this one will be entirely genuine. I've given due consideration to Revolut's duty to make payments promptly, as well as what I consider to have been good industry practice at the time this payment was made.

Having thought carefully about the risk this 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 Mrs Y's account. I think it should have done this by, for example, directing Mrs Y to its in-app chat to discuss the payment further.

If Revolut had attempted to establish the circumstances surrounding this payment, would that have prevented the losses Mrs Y incurred after that point?

The other bank Mrs Y sent funds to her Revolut account from stopped one of those payments and asked her about the purpose of the payment. And Mrs Y answered that it was for 'online shopping'. But as the payments she was making from her Revolut account were going to a cryptocurrency exchange, this wouldn't have been a plausible explanation for these payments if Revolut had asked Mrs Y about them.

Mrs Y has also said she only answered in this way because she felt scared and intimidated about the questions she was being asked at the time. And I've not seen anything to suggest she had been told to lie when asked about the payment, or given any kind of cover story by the scammers to give if she was asked.

So I think it's likely Mrs Y would have answered honestly if asked about the circumstances of the payment by Revolut, as she wouldn't have been able to come up with a plausible

alternative explanation. And even if she had attempted to mislead Revolut about the payment, I don't think she had a clear enough understanding of cryptocurrency investment to have given it a satisfactory explanation of what she was doing.

And so, if it had asked questions about the circumstances surrounding this payment – as I think it should have done, I think Revolut would have discovered that Mrs Y was purchasing cryptocurrency as part of an investment. Revolut should then have provided her with a warning highlighting, in clear and understandable terms, the key features of common investment scams – for example, referring to: an advertisement on social media promoted by a celebrity of public figure, an 'account manager', 'broker' or 'trader' acting on their behalf, being asked to provide remote access to their device, and a small initial deposit which quickly increases in value.

I've thought carefully about whether a specific warning covering off the key features of investment scams would have likely prevented any further loss in this case. And on the balance of probabilities, I think it would have.

There were several key hallmarks of common investment scams present in the circumstances of Mrs Y's payments, such as communicating about the investment through social media, being assisted by a broker and being told she had made significant profit following a small initial deposit. So I think it's likely a warning highlighting these features would have resonated with her and caused her to consider the payments she was making to the investment company further.

I've also seen no indication that Mrs Y expressed mistrust of Revolut or financial firms in general. I've not seen any evidence that the scammer told her to mislead any bank that contacted her about the payments, to conceal the true purpose of the payments or to ignore any warnings she was given. And as neither Revolut nor any other bank involved in the journey of the funds showed her any warning that was relevant to her circumstances, I've not seen anything to suggest Mrs Y would have ignored or moved past any such warning she was given.

I'm also conscious that Mrs Y ultimately came to realisation herself that she might be the victim of a scam, when she was told by the scammers that she needed to pay a large amount in before she could withdraw the profit she was told she had made. She then looked into the investment company further and discovered it was a scam. And I think this demonstrates that Mrs Y was not oblivious to the potential risk and, all things considered, I've concluded that questions and warnings of the type I've described would have resonated with her and dissuaded her from going ahead with the second payment and therefore prevented her losses from this point on.

Therefore, on the balance of probabilities, had Revolut provided Mrs Y with a proportionate warning that gave details about investment scams and how she could protect herself from the risk of fraud, I believe it would have resonated with her. She could have paused and looked more closely into the investment company before proceeding and made further enquiries into investment scams. And as Mrs Y looking more closely into the investment company is what ultimately appears to have uncovered the scam, I'm satisfied that a timely warning to her from Revolut would very likely have caused her to take similar steps – revealing the scam and preventing her further losses.

Is it fair and reasonable for Revolut to be held responsible for some of Mrs Y's loss?

In reaching my decision about what is fair and reasonable, I have taken into account that Mrs Y appears to have paid money using her Revolut account to another account in her own name with the cryptocurrency exchange, rather than directly to the fraudster. So she

remained in control of her money after she made the payments, and there were further steps before the money was lost to the scammer.

But as I've set out in detail above, I think that Revolut still should have recognised that Mrs Y might have been at risk of financial harm from fraud when she made the payment on 11 August 2022, and in those circumstances it should ultimately have provided her with a warning about the risk of investment scams. If it had taken those steps, I am satisfied it would have prevented the losses Mrs Y suffered. The fact that the money used to fund the scam came from elsewhere and wasn't lost at the point it was transferred to Mrs Y's own account does not alter that fact and I think Revolut can fairly be held responsible for Mrs Y's loss 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'm also not persuaded it would be fair to reduce a consumer'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 Mrs Y's loss from the payment of 11 August 2022 onwards (subject to a deduction for Mrs Y's own contribution which I will consider below).

Should Mrs Y bear any responsibility for her losses?

Revolut has argued that Mrs Y should have done more to protect herself here by doing a greater level of due diligence on the investment company before making the payments. And I've considered whether it would be fair for Mrs Y to bear some responsibility for her loss.

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.

And while I appreciate that this was a sophisticated scam where Mrs Y was given access to a trading platform which appeared to show her investment and the profit she was making, I think there were a number of things about what was happening and what she was told that should have caused her significant concern.

Most of the communication Mrs Y had with the investment company appears to have been via an instant messaging app. She also doesn't appear to have been sent any documentation or paperwork relating to the investment she was making. And I wouldn't usually expect a legitimate investment company to communicate in this way, and particularly without proving at least some more formal record of her investment.

Mrs Y has said she had concerns about whether the investment company was legitimate, both when her ex-husband first told her about it and at times during the period she was making payments towards it. But she doesn't appear to have taken significant action to check who the company was or whether it was legitimate before making or continuing to make the payments. And while I appreciate she was not an experienced investor and may not have known what checks she could do, I don't think it's unreasonable to have expected her to try to carry out more checks into who she was sending the money to – particularly

given the significant amount of money she was sending and the concerns she's said she had.

From what Mrs Y has said, she was also told that the value of her and her ex-husband's investments had increased significantly – more than doubling in value, and in only a few months. But I don't think these kinds of returns are plausible, particularly in such a short period of time. So I think being told she could or had made such a significant profit should have caused Mrs Y significant concern that what she was being told was too good to be true.

I sympathise with the position Mrs Y has found herself in and recognise that she has been the victim of a cruel scam. But I think there were a number of things here which should have caused her significant concern, particularly when taken all together. And I don't think she did enough to satisfy those concerns or that the seemingly genuine parts of the scam should have been enough to overcome them.

So I think it would be fair and reasonable for her to also bear some responsibility for the loss she suffered.

Redress

For the reasons set out above, I think Revolut should have identified that Mrs Y was at risk of financial harm from fraud as a result of the payments she made here. And I think the warning I would have expected it to show in response to this risk would have prevented Mrs Y making the payments, and so losing the money she did from that point on. I also think it would be fair for Mrs Y to bear some responsibility for the money she lost.

Most of the payments Mrs Y made from her Revolut account were funded by payments made from an account she holds with another bank. And, in a separate case, our service has found that the other bank should also share some responsibility for Mrs Y's loss.

The payments Mrs Y made into her Revolut account from the originating bank on 3 and 4 November 2022 of £50, £150 and £8,000 were partially exchanged into cryptocurrency but then never left her account. So she did not lose this money and it wouldn't be fair to require Revolut to refund any of it.

The payments Mrs Y made as a result of the scam from her Revolut account, using funds from the originating bank, therefore total £174,000. And Mrs Y received a total of £15,256.10 back from the cryptocurrency exchange, so this should be deducted from this loss for a total of £158,743.90.

As Revolut, the originating bank, and Mrs Y are all to share responsibility for this loss, Revolut would then be required to refund 33% of this loss – totalling £52,385.49.

£2,000 of the first payment Mrs Y made from her Revolut account, of £7,000 on 11 August 2022, was funded by funds either already in her Revolut account or funds for which the originating bank is not being held responsible. And so just Mrs Y and Revolut should share responsibility for the loss from this amount, and Revolut would then refund 50% of this amount – totalling £1,000.

Together with the 33% refund from the other payments, the total refund Revolut should now make is therefore £53,385.49.

My final decision

I uphold this complaint and require Revolut Ltd to:

- Refund Mrs Y £53,385.49 – as set out above
- Pay Mrs Y 8% simple interest on this refund, from the date of the payments until the date of settlement

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs Y to accept or reject my decision before 1 August 2025.

Alan Millward
Ombudsman