

### The complaint

Mr R complains that Revolut Ltd won't refund money he lost to a scam.

Mr R is represented by a firm I'll call C, and for ease I've referred to comments made by C as though made by Mr R.

### What happened

The details of this complaint are well known to both parties, so I won't repeat it all again here.

In summary, Mr R complains that he made the following card payments as a result of a cryptocurrency investment scam.

Payment	Date	Amount
1	27-January 2023	£15
Received	31 January 2023	2,127.72 TRY
2	31 January 2023	£3,000
3	01 February 2023	£2,700
4	09 February 2023	£5,000
5	15 February 2023	£5,000
6	15 February 2023	£3,800
7	02 March 2023	£4,500
8	06 March 2023	£4,650
9	17 March 2023	£3,000
10	24 March 2023	£4,800
11	27 March 2023	£2,933
12	05 April 2023	£3,500
13	07 April 2023	£2,950
14	11 April 2023	£5,000

15	11 April 2023	£1,000
16	12 April 2023	£5,000
17	12 April 2023	£2,120
18	12 April 2023	£100
	Total credit	2,127.72
	Total loss	56,940.28

Mr R said he saw an advertisement online regarding a cryptocurrency investment opportunity by a firm I'll call L. He completed an enquiry form on the firm's website and subsequently received a call from someone purporting to be an expert broker for the firm.

Mr R said he was guided to open an account on a cryptocurrency exchange website and to download screen sharing software. Mr R made several payments to a cryptocurrency exchange platform and says the scammer invested the funds for him.

Mr R said he received an email from another cryptocurrency provider, I'll call "B", which said he needed to make a payment as part of its anti-money laundering checks. Mr R said he realised he had been scammed when he emailed B directly, and he was told the email he had received was not from them.

Revolut did not refund the money Mr R lost, it said he had authorised the transactions and it was unable to raise a chargeback claim for the payments. As such Mr R referred his complaint to our service and our investigator thought the complaint should be upheld. She said there was enough going on that should have given Revolut cause for concern, but there was no evidence it provided any meaningful warnings and there was nothing to suggest Mr R wouldn't have listened to a warning. However, our Investigator also thought Mr R should share responsibility for his losses.

Revolut didn't agree and in summary it says:

- It's not required to prevent all fraud particularly in the face of authorised customer instructions. And it does not need to concern itself with the wisdom of those instructions.
- Revolut is not a signatory to the Contingent Reimbursement Model code and our service appears to be treating it as though it is.
- It is irrational to hold Revolut liable for customer losses in circumstances where it is merely an intermediate link.
- Mr R did not conduct due diligence and it is irrational that Revolut should reimburse the customer without proper regard to their lack of care.

As an agreement couldn't be reached, the complaint has been passed to me to decide. I issued my provisional decision on 1 April 2024 in which I said the following:

"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 Mr R 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.

In practice Revolut did in some instances refuse or delay payments at the time where it suspected its customer might be at risk of falling victim to a scam.

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 January 2023 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 to 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.

For example, it is my understanding that in January 2023, Revolut, whereby if it identified a scam risk associated with a card payment through its automated systems, could (and sometimes did) initially decline to make that payment, in order to ask some additional questions (for example through its in-app chat).

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)<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 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

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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.

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

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, as indeed Revolut does in practice (see above).

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 January 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;
- 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.

Whilst I am required to take into account the matters set out at DISP 3.6.4R when deciding what is fair and reasonable, I am satisfied that to comply with the regulatory requirements that were in place in January 2023, Revolut should in any event have taken these steps.

*Should Revolut have recognised that Mr R was at risk of financial harm from fraud?*

By January 2023, firms like Revolut had been aware of the risk of multi-stage scams involving cryptocurrency (that is scams involving funds passing through more than one account controlled by the customer before being passed to a fraudster) for some time. Scams involving cryptocurrency have increased over time. The FCA and Action Fraud published warnings about cryptocurrency scams in mid-2018 and figures published by the latter show that losses suffered to cryptocurrency have continued to increase since. They reached record levels in 2022. During that time, cryptocurrency was typically allowed to be purchased through many high street banks with few restrictions.

By the end of 2022, however, many of the high street banks had taken steps to either limit their customer's ability to purchase cryptocurrency using their bank accounts or increase friction in relation to cryptocurrency related payments, owing to the elevated risk associated with such transactions<sup>4</sup>. And by January 2023, when these payments took place, further restrictions were in place<sup>5</sup>. I recognise that, as a result of the actions of other payment service providers, many customers who wish to purchase cryptocurrency for legitimate purposes will be more likely to use the services of an EMI, such as Revolut. And I'm also mindful that the vast majority of cryptocurrency purchases made using a Revolut account will be legitimate and not related to any kind of fraud (as Revolut has told our service). However, our service has also seen numerous examples of consumers being directed by fraudsters to use Revolut accounts in order to facilitate the movement of the victim's money from their high street bank account to a cryptocurrency provider.

So, taking into account all of the above, I am satisfied that, by the end of 2022, prior to the payments Mr R made in January 2023, Revolut ought fairly and reasonably to have recognised that its customers could be at an increased risk of fraud when using its services to purchase cryptocurrency, notwithstanding that the payment would often be made to a cryptocurrency wallet in the consumer's own name. In those circumstances, as a matter of what I consider to have been fair and reasonable and good practice, Revolut should have had appropriate systems for making checks and delivering warnings before it processed such payments.

Taking the above into account, and in light of the increase in multi-stage fraud, particularly involving cryptocurrency, I don't think that the fact the payments in this case were going to an account held in Mr R's own name should have led Revolut to believe there wasn't a risk of fraud.

Payment 1 was of a low value and was in keeping with the historic activity on Mr R's account. Therefore, I don't find this payment should have caused Revolut concern that Mr R was at risk of financial harm from fraud.

However, I think Revolut should have recognised that the payments were to a cryptocurrency provider and having reviewed Mr R's account activity in the months prior, I find payment 2 to have been unusual and uncharacteristic for him. I find this payment of a significantly higher value than payment 1, such that Revolut ought to have been concerned that Mr R might be at a greater risk of fraud and for it to have intervened. However, I can't see that Revolut did so or that it provided Mr R with any warnings.

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<sup>4</sup> See for example, Santander's limit of £1,000 per transaction and £3,000 in any 30-day rolling period introduced in November 2022.

NatWest Group, Barclays, Lloyds Banking Group and Santander had all introduced some restrictions on specific cryptocurrency exchanges by August 2021.

<sup>5</sup> In March 2023, Both Nationwide and HSBC introduced similar restrictions to those introduced by Santander in November 2022.

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.

Taking that into account, I think Revolut ought, when Mr R attempted to make Payment 2, knowing (or strongly suspecting) that the payment was going to a cryptocurrency provider, to have provided a warning (whether automated or in some other form) that was specifically about the risk of cryptocurrency scams, given how prevalent they had become by the end of 2022. In doing so, I recognise that it would be difficult for such a warning to cover off every permutation and variation of cryptocurrency scam, without significantly losing impact.

So, at this point in time, I think that such a warning should have addressed the key risks and features of the most common cryptocurrency scams – cryptocurrency investment scams. The warning Revolut ought fairly and reasonably to have provided should have highlighted, in clear and understandable terms, the key features of common cryptocurrency investment scams, for example referring to: an advertisement on social media, promoted by a celebrity or public figure; an 'account manager', 'broker' or 'trader' acting on their behalf; the use of remote access software and a small initial deposit which quickly increases in value.

I recognise that a warning of that kind could not have covered off all scenarios. But I think it would have been a proportionate way for Revolut to minimise the risk of financial harm to Mr R by covering the key features of scams affecting many customers but not imposing a level of friction disproportionate to the risk the payment presented.

If Revolut had provided a warning of the type described, would that have prevented the losses Mr R suffered from payment 2 onwards?

I've considered whether a warning setting out the key features of a cryptocurrency investment scam would have had a positive impact on Mr R and ultimately prevented his losses and on the balance of probabilities I think it would have. Many of the key features of a cryptocurrency investment scam were present here such as being assisted by a broker, downloading screen sharing software so that the scammer could assist Mr R to set up an account on a cryptocurrency exchange website and an initial small deposit which increased quickly and by a significant amount.

While Mr R has provided evidence of some written correspondence with the scammer, he told us most of their conversations took place over the phone. Mr R told us he wasn't asked to lie to Revolut nor was he provided a cover story to use if any of the payments were to have been stopped. And I can't see that Mr R was told to ignore any warnings he might have received. I have also not seen any other evidence that at the time he made payment 2, Mr R was so under the scammer's spell to the extent that he would not have taken heed to a warning if one was provided.

So, on the balance of probabilities, had Revolut presented Mr R a detailed warning tailored to cryptocurrency investment scams, I think it's likely he would have been able to note the similarities it bore to his circumstances and would have been positively impacted by such warning. He could then have carried out further research into the investment firm and the broker and educated himself on the risk of scams when investing in cryptocurrency. Had he done, I think it's likely Mr R would have been concerned enough, not to proceed to make the

payment. This is because, as Revolut itself has mentioned, a search on the internet would have shown negative reviews relating the investment company.

*Is it fair and reasonable for Revolut to be held responsible for Mr R's loss?*

In reaching my decision about what is fair and reasonable, I have taken into account that Mr R paid money from his Revolut account to another account in his name and the payment was not made from Revolut directly to the scammers.

But as I've set out in some detail above, I think that Revolut still should have recognised that Mr R might have been at risk of financial harm from fraud when he made Payment 2, and in those circumstances, it should have declined the payment and made further enquiries. If it had taken those steps, I am satisfied it would have prevented the losses Mr R suffered. The fact that the money used to fund the scam came from elsewhere and/or wasn't lost at the point it was transferred to Mr R's own account does not alter that fact and I think Revolut can fairly be held responsible for Mr R'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've also considered that Mr R has only complained against Revolut. I accept that it's *possible* that other firms might also have missed the opportunity to intervene or failed to act fairly and reasonably in some other way, and Mr R could instead, or in addition, have sought to complain against those firms. But Mr R has not chosen to do that and ultimately, I cannot compel him to. In those circumstances, I can only make an award against Revolut.

I'm also not persuaded it would be fair to reduce Mr R'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 Mr R's loss from Payment 2 (subject to a deduction for Mr R's own contribution which I will consider below).

*Should Mr R bear any responsibility for his losses?*

I find that there were aspects of the scam that would have appeared genuine to Mr R. For instance, Mr R says he was directed to download an investment platform in which he could see his investment growing. He has provided us with screenshots of the platform, and I can understand why he might have thought it to be legitimate. Mr R also says he was taken through a verification process by the scammer, and this gave him further confidence in its legitimacy. As such, I can't fairly say Mr R acted unreasonably initially.

However, Mr R then attempted to withdraw funds from the investment and said he was told to pay additional fees, but even after doing so he was unable to withdraw his funds. Mr R later received an email he believed to be from B, regarding anti-money laundering checks and requesting he made additional payments. As this firm had no previous involvement in Mr R's investment, I think this should have raised alarm bells. Particularly as after he made the initial payment in response to the email, he was then contacted again to make further payments as part of these checks, which I find unusual.



It's clear Mr R had become suspicious, as he emailed the genuine B, and this is when he was informed by them that he had been scammed. Considering that Mr R was now aware that the emails were fraudulent and the payments he made had gone towards a scam, I think this should have made Mr R stop and at the very least investigate the legitimacy of the investment firm and broker. However, Mr R went on to make three further payments towards the scam.

Had Mr R carried out an internet search into the scam investment firm, I can see there were several negative reviews by this time and a warning on the Financial Conduct Authority's website that the scam company was not authorised and it was targeting UK consumers. It also says to beware of scams.

For these reasons, I don't find Mr R acted reasonably and as such I find he ought to bear equal responsibility for his losses from payment 16 onwards."

Mr R accepted what I said provisionally, and Revolut did not make any comment.

### **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 Mr R accepted my provisional decision and neither party provided additional comments for me to consider, I see no reason to depart from what I said provisionally.

### **My final decision**

For the reasons I've set out above, my decision is to uphold this complaint and I require Revolut Ltd to:

- refund payment 2 to payment 15 (inclusive), after deducting the £2,127.72 credit Mr R received.
- Refund 50% of Mr R's losses from payment 16 to payment 18.
- It should also apply 8% simple interest, per year, for loss of use of his money during this time - calculated from the date of each payment to the date of settlement.

If Revolut Ltd considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mr R how much it's taken off. It should also give Mr R a tax deduction certificate if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 14 May 2025.

Oluwatobi Balogun  
**Ombudsman**