

## The complaint

Mr H has complained that Revolut Ltd (Revolut) has refused to refund him the money he lost falling victim to a scam.

Mr H is being represented by a third party. To keep things simple, I will refer to Mr H throughout my decision.

## What happened

The background of this complaint is well known to all parties, so I won't repeat what happened in detail.

In summary, Mr H was looking to invest having heard about high profile people in the media having made their fortunes investing online. Mr H started looking for an appropriate investment opportunity online and came across Prime Coin (X).

X appeared to be a legitimate and professional trading platform. It offered personal guidance for its customers that had little trading experience, which appealed to Mr H as he had little trading experience. After researching X online and finding positive reviews Mr H completed an online data capture form registering his interest in the investment opportunity.

X contacted Mr H and explained in more detail the investment opportunity it was offering. Persuaded by the professional approach of X, Mr H agreed to open an account on the trading platform provided by X. X explained that the more Mr H invested the higher return he would receive.

X built trust with Mr H speaking about family and personal experiences and encouraged Mr H to make further payments into the investment.

Mr H was able to make a relatively small withdrawal from the investment part way through which gave him greater confidence X was genuine, and he continued to invest. However, when Mr H decided to make a larger withdrawal, he was asked to make further payments first. After making several payments Mr H realised he had fallen victim to a scam.

Mr H took bank loans and loans from family and friends to help fund the investment.

Mr H made the following payments into the scam via a legitimate cryptocurrency exchange:

<u>Date</u>	<u>Payee</u>	<u>Amount</u>
1 June 2022	Binance	£1,000
1 June 2022	Binance	£2,500
2 June 2022	Binance	£8,800
2 June 2022	Binance	£6,200
6 June 2022	Binance	£20,000
6 June 2022	Binance	£19,000

7 June 2022	Binance	£25,000
7 June 2022	Binance	£23,500
8 June 2022	Binance	£23,000
8 June 2022	Binance	£20,001
9 June 2022	Binance	£10,000
9 June 2022	Binance	£20,000
9 June 2022	Binance	£26,000
9 June 2022	Binance	£30,000
9 June 2022	Binance	£6,010
10 June 2022	Binance	£10,000
13 June 2022	Binance	£25,000
14 June 2022	Binance	£16,827
14 June 2022	Binance	£4,000
15 June 2022	Refund	-£1,000
15 June 2022	Binance	£1,000

Other than the withdrawal Mr H made of £1,000 he has not been able to recover any of the money he sent in relation to the scam.

Our Investigator considered Mr H's complaint and thought it should be upheld. Revolut disagreed, so this complaint has been passed to me to decide.

### **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.

It has not been disputed that Mr H has fallen victim to a cruel scam. The evidence provided by both Mr H and Revolut sets out what happened. What is in dispute is whether Revolut should refund the money Mr H lost due to the scam.

#### *Recovering the payments Mr H made*

Mr H made the payments in relation to the scam via his debit card. When a payment is made by card the only option Revolut has to recover the payment is to request a chargeback.

The chargeback scheme is a voluntary scheme set up to resolve card payment disputes between merchants and cardholders. The card scheme operator ultimately helps settle disputes that can't be resolved between the merchant and the cardholder.

Such arbitration is subject to the rules of the scheme, meaning there are only limited grounds and limited forms of evidence that will be accepted for a chargeback to be considered valid, and potentially succeed. Time limits also apply.

As the scammer was not a party to the payments, Mr H does not have a valid claim against the company he paid. This is because the company provided the service, which was to purchase the cryptocurrency. The subsequent transfer of these funds would not give rise to a valid chargeback.

#### *Should Revolut have prevented the payments Mr H made?*

Mr H has accepted he authorised the payments he made from his Revolut account albeit on the scammer's instruction, so the starting point here is that Mr H is responsible. However, banks and other Payment Services Providers (PSPs) do have a duty to protect against the

risk of financial loss due to fraud and/or to undertake due diligence on large transactions to guard against money laundering.

The question here is whether Revolut should have stepped in when Mr H was attempting to make the payments, and if it had, would it have been able to prevent the scam taking place.

I have considered the payments Mr H made in relation to the scam. Although Mr H was paying a new payee it wouldn't be reasonable for me to suggest Revolut should step in every time one of its customers pays a new business. So, as the first payments Mr H made were of relatively low value, I don't think it was unreasonable that Revolut's fraud prevention systems were not triggered by them, prompting it to step in.

However, the third payment Mr H made of £8,800 was to a relatively new payee that is associated with crypto payments. Considering Mr H had not previously made similar payments from his account with Revolut and that the amount being sent was substantial I think this payment should have triggered Revolut's fraud prevention systems, and Revolut should have stepped in and questioned Mr H about what the payment was for.

Had Revolut stepped in and questioned Mr H about what the payment was for and how it had come about I think it's likely it would have uncovered the scam. The methods used by the scammer were like those Revolut would likely have seen previously and the use of a legitimate cryptocurrency exchange to transfer funds is commonly seen in scams of this type.

Had Revolut uncovered the scam at this stage I think it's likely Mr H would not have made any further payments and therefore not lost as much to the scam as he did. So, Revolut is responsible for the payments Mr H made from the payment of £8,800 onwards.

*Did Mr H contribute to his loss?*

Despite regulatory safeguards, there is a general principle that consumers must still take responsibility for their decisions (see s.1C(d) of our enabling statute, the Financial Services and Markets Act 2000).

The returns Mr H was seeing on his investment were too good to be true representing a return of over 800%. I think this should have raised a red flag for Mr H prompting him to carry out more research into X before making further payments.

Mr H also took out several loans to fund the investment, giving the reasons for the loans as "home improvement" when he intended to use the funds in the investment. I think had Mr H been honest with his intention to invest the funds it's likely the loan applications would have been declined preventing some of the loss.

So, with the above in mind, I think it would be fair to reduce compensation by 50% on the basis that Mr H should share blame for what happened.

Revolut has argued that Mr H would likely not have told it about the investment had it stepped in and asked him questions about the payments he was making as he was willing to be dishonest when taking out loans to fund the investment, and that given the circumstances of the scam Mr H should have been aware he was not dealing with a legitimate business.

I have thought about these points throughout my decision but still think Revolut should have stepped in and had it done so it would have had every chance of uncovering the scam and preventing any further loss. It is also common for scammers to guide people through how to apply for a loan and the reasons to give. I don't think this means Mr H would have

necessarily been dishonest if asked direct questions about the payments he was making by Revolut. So, these points don't change my decision.

### **Putting things right**

I've explained why I think Revolut is responsible for some of Mr H's loss.

Revolut should refund Mr H the payments he made in relation to the scam from the third payment of £8,800 less £20,000 that came from Mr H's business account. Revolut should also deduct 50% from this amount making a total refund amount of £136,669.

As the source of the funds stem from multiple sources, Revolut should add interest to that sum (less any tax properly deductible) in the following way, from the respective dates of loss to the date of refund:

- Refund the charges and interest applied to the three loans used to fund the disputed transactions.
- No interest should be applied to the portion of the disputed transactions that were funded by the loans from friends and family, which amounts to £81,010.
- Interest to be applied on the remain amount at account rate, according to the interest rate of the respective accounts.

### **My final decision**

I uphold this complaint and require Revolut to put things right by doing what I've said above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 1 September 2023.

Terry Woodham  
**Ombudsman**