

The complaint

Mr P complains that J.P. Morgan Europe Limited (trading as “Chase”) won’t refund debit card payments totalling £131,550 that he says he lost to an investment recovery scam.

What happened

The details of this complaint are well known to both parties, so I won’t repeat everything again here. In brief summary, Mr P fell victim to an investment scam in August 2022 that involved him paying £32,000 from an account with a regulated electronic money institution (“W”). Mr P received £26,500 of this money back from W as it agreed that it should’ve done more to prevent his loss to the scam. It didn’t include the first two payments totalling, £5,500 in its settlement as it didn’t think they were unusual enough for it to have intervened.

Mr P accepted this settlement from W on 16 May 2022 and his complaint about it was closed. He said he subsequently received a cold call from a company (“Blockchain”) in September 2022 who said they could help him recover the remaining money he lost to the investment scam.

Mr P said he was encouraged to invest more money in order to release the cryptocurrency that was “stuck” in his account. Between 8-22 October 2022, Mr P made 23 payments to cryptocurrency platforms using his Chase debit card, totalling £131,550.

Mr P said he realised he had been scammed by Blockchain when he was being asked to pay various taxes to release his cryptocurrency. Mr P reported the fraud to Chase, but it said it wouldn’t refund the money he lost as he’d authorised the payments. Unhappy with this, he referred the matter to our service.

Our investigator didn’t uphold the complaint as she didn’t think there was sufficient evidence to demonstrate the sort of scam Mr P had fallen victim to. He wasn’t able to give answers to several questions and had also given different versions of what happened to the bank and to this service. The investigator also noted that Mr P had lied in order to obtain a loan from his bank, so she didn’t think any further questioning from Chase would have uncovered the scam in any event. Mr P disagreed, so the matter has been escalated to me to determine.

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 agree with the conclusions reached by the investigator and have decided not to uphold it. I’ll explain why.

On the face of it, it does appear that Mr P has fallen victim to a type of cryptocurrency scam. However, in order to determine whether a bank can fairly be held liable for its customer’s loss to a scam, it’s necessary to understand the details of how the fraud unfolded to be able to determine whether the bank could have reasonably prevented it.

However, in this case, I note that Mr P has not been able to give us the full picture of what happened. There have been various inconsistencies in his testimony that lead me to doubt his version of events. For example, he initially said to Chase that he had initiated contact with Blockchain after it was recommended to him by a friend who was making good profits, which led to him being contacted by the broker, where he believed he could make up to £600,000.

However, he later said he had been contacted “out of the blue” by Blockchain telling him they could help recover money he’d lost to a previous scam, which is at odds with what he first told Chase. It also seems unlikely that this would be the reason for him parting with so much money. I accept that many people fall victim to recovery scams after a previous investment scam. But it doesn’t explain why Mr P would have then made payments of over £131,000 when his outstanding loss that hadn’t been recovered was only £5,500. Our service has asked Mr P why he thought he needed to pay a significant amount more than he was trying to recover, and also why he was taking out loans to do this, but he has said that he cannot give an answer to this. The circumstances of the scam Mr P actually fell victim to therefore remain unclear.

Mr P also told Chase that no one else had access to his crypto accounts or login details and that he was unsure where his funds had gone. Usually in an investment or recovery scam, the scammer would have opened the crypto wallet for the customer and provided them with the login details (which they could also access). However, Mr P has said this wasn’t the case here. Our service has also asked Mr P to provide a full transcript of his messages with the scammer to show exactly how the scam unfolded, but he has not been able to do this, and has only provided parts of his conversation which do not give the full picture.

As a result, in light of the inconsistent testimony and lack of evidence/explanation, it can’t reasonably be determined how Mr P was scammed in these circumstances, or whether Chase could have prevented it. But even if I were to accept that Mr P has been scammed – and that Chase should have questioned him further about the payments – I’m not persuaded it would have got to the bottom of what was happening in any event.

I say this because I can see Mr P took out two loans in order to fund the crypto payments he was making, but he hid this information from the lenders and told them he was taking out loans for home improvements. I accept it’s possible he may have been coached by the scammer to lie to the banks. But given he wasn’t honest when he was asked why he was borrowing money, it seems likely he would have continued to provide misleading answers if he had been questioned further by Chase about the payments he was making.

I can also see from messages between Mr P and the scammer that he gave his Chase account details in case his other banks “created problems”. Our service asked Mr P what was meant by this, but he again has said that he’s unable to give an answer. And in the absence of any explanation, it further leads me to believe that Mr P was likely being coached by the scammer on what to say in order to ensure the payments either went through or avoided detection.

So, in these circumstances, I don’t consider it would be fair and reasonable to hold Chase liable for Mr P’s loss.

I appreciate this will likely come as a disappointment to Mr P, and I’m sorry to hear he has been the victim of a cruel scam. However, I’m not persuaded that Chase can fairly or reasonably be held liable for his loss in these circumstances.

My final decision

For the reasons given above, I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 19 February 2024.

Jack Ferris
Ombudsman