

The complaint

Mr F complains that Revolut Ltd won't refund the money he lost to an investment scam.

Mr F is represented by a third party, but for ease of reading, I'll treat all submissions as having come from him alone in this decision.

What happened

Around June 2022, Mr F made contact with an individual (the scammer) representing a company I'll call 'O'. The scammer advised Mr F that he'd earned profits on a cryptocurrency account he'd opened four years earlier. The scammer said the account couldn't be dormant for longer than a month therefore he had no option but to trade on Mr F's behalf and he'd made profits. Mr F says the scammer came across well educated, convincing and knowledgeable which reassured him.

The scammer guided Mr F to install 'AnyDesk' on his laptop for trading purposes. After some small trades, the scammer advised Mr F to deposit more so that he could earn more profits and better his membership position. Mr F was instructed to open an account with Revolut and the scammer also persuaded him to apply for three loans totalling £50,000 to fund his investment with O. The loan funds were credited to Mr F's account with a different banking provider (Bank A). Mr F subsequently transferred those funds to his Revolut account.

In order to retrieve his earlier investment and increase his profits, Mr F used his Revolut account to transfer five payments totalling £68,630.69 (between 4 July 2022 and 15 July 2022) to a crypto exchange account in his name. He purchased crypto from the exchange and the crypto was ultimately sent on to the scammer's wallet.

Mr F realised he'd fallen victim to a scam when he was unable to withdraw the funds from his O investment and the scammer ceased contact with him. Mr F complained to Revolut. Revolut declined to refund Mr F's losses, so he referred his complaint to this service.

One of our investigators reviewed things and didn't think Revolut acted unfairly by declining to refund Mr F's loss. He felt the second transaction was substantial and should have warranted a reasonable intervention by Revolut but having seen evidence of an intervention with Bank A - which was considered as a separate complaint at this service - he noted that intervention didn't make a difference to Mr F.

Mr F didn't agree and asked for an Ombudsman to consider his complaint. He said in summary:

- Bank A refunded part of his losses due to its own failings.
- He was able to remove money from his own wallet as he was the one to move money on to the scammers.
- Better questioning from Revolut - due to the size of the payments - would have uncovered the scam.

The complaint has therefore been passed to me for determination.

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 don't uphold this complaint and I'll explain why.

Banks and other Payment Services Providers ("PSPs") have expectations to protect customers against the risk of financial loss due to fraud and/or to undertake due diligence on large transactions to guard against money laundering (see below). But when simply executing authorised payments, they do not have to protect customers against the risk of bad bargains or give investment advice — and the FCA has confirmed that a fraud warning would not constitute unauthorised investment advice.

There's no dispute from either party that Mr F was the victim of a scam. The evidence before me also indicates that Mr F was the victim of an investment scam. Having concluded that this was a scam rather than just a genuine investment that went wrong, I must now go on to consider three more issues in order to determine the outcome of the complaint:

1. Should Revolut have fairly and reasonably made further enquiries before it processed Mr F's payments?
2. If so, would Revolut's further enquiries have made a difference and prevented or reduced the loss?
3. And if so, should Mr F bear some responsibility for the loss such that it would be fair and reasonable to reduce compensation proportionately.

Should Revolut have fairly and reasonably made further enquiries before it processed Mr F's payments?

The starting point under the relevant regulations (in this case, the Payment Services Regulations 2017) and the terms of Mr F's account is that he is responsible for the payments he authorised himself.

However, taking into account the law, regulatory rules and guidance, relevant codes of practice and what I consider to have been good industry practice at the time, I consider Revolut should fairly and reasonably:

- Have been monitoring accounts—and any payments made or received—to counter various risks, including anti-money-laundering, countering the financing of terrorism, and preventing fraud and scams;
- Have had systems in place to look out for unusual transactions or other signs that might indicate its customers were at risk of fraud (amongst other things). This is particularly so given the increase in sophisticated fraud and scams in recent years, which banks are generally more familiar with than the average customer; and
- In some circumstances, irrespective of the payment channel used, have taken additional steps, or made additional checks, before processing a payment, or in some cases declined to make a payment altogether, to help protect customers from the possibility of financial harm from fraud.
- Have been mindful of – among other things – common scam scenarios, the evolving fraud landscape (including for example the use of multi-stage fraud by scammers).

I've noted Mr F's Revolut account was opened in 2020 but didn't have very much activity on it aside from a low value payment to a crypto exchange in 2020. In my judgement, Revolut didn't have a picture of what 'normal' account activity looked like for Mr F. The first payment

on 4 July 2022 was for £100, I don't think it's reasonable to suggest that this payment ought to have warranted further checks from Revolut given its low value.

But when Mr F made his second payment of £39,900 on the same day as the first, I am satisfied Revolut ought fairly and reasonably to have identified from the information available to it that there might be an increased risk associated with the payment and, in those circumstances it should fairly and reasonably have made further enquiries.

I accept not all payments made to crypto exchanges are made as the result of a scam, however, there was very little prior activity on the account followed by a substantial payment to a crypto exchange, I think the circumstances ought fairly and reasonably to have led Revolut to make additional enquiries before making the payment. This would be in order to establish the circumstances in which Mr F was making such a substantial payment.

I think Revolut ought to have reasonably been mindful of common cryptocurrency scams, whereby victims are asked to purchase crypto to send them onto fictitious trading accounts in the belief that they're earning substantial profits.

I note Revolut did not intervene and provide warnings and in my judgement, it was a missed opportunity to do so.

Would Revolut's further enquiries have made a difference and prevented or reduced the loss?

I've noted that Bank A intervened in a large payment made by Mr F to a crypto exchange in branch (in connection with the same scam). I've read the notes which recorded the conversation between branch staff and Mr F on 22 June 2022 (prior to the Revolut payments).

Once Mr F disclosed he was making a payment for investment purposes, he was asked whether he was contacted unexpectedly by phone, text or social media, responded to an online advert and/or promised high return with little or no risk. Mr F answered no. Mr F said he was investing in cryptocurrency and was given a warning about fictitious cryptocurrency investments, along with how they are advertised. Mr F was asked whether he checked the company is registered to trade in the UK with no warnings listed against it on the FCA register – he answered yes. Mr F was asked to confirm that he opened the cryptocurrency account/wallet himself with no one else having access to it and only he can make withdrawals – Mr F answered yes. Mr F proceeded with the payment.

In my judgement, the questioning and warnings from Bank A was relevant to Mr F's situation but Mr F wasn't completely truthful in his answers with Bank A. For example, he was contacted out of the blue by the scammer yet he confirmed to Bank A that he wasn't.

I've also seen correspondence between Mr F and the scammer which appears to show that he was convinced the scammer was working on his behalf to increase his profits. Even in situations where Mr F's trading account made losses, he was still determined to work with the scammer to recoup them. In my judgement, Mr F genuinely believed what the scammer was telling him, along with the legitimacy of his trading account. And I also think he was comfortable with the risk of losing money. I think if Revolut had made further reasonable enquiries, he wouldn't have given them any cause to suspect he could be falling victim to a scam because he believed his investment was doing well. He'd also not had any issues with withdrawing his profits at this stage.

I've also noted in communication with the scammer about his £40,000 transfer from Bank A to Revolut (which funded the second payment from Revolut to the scammer), the scammer

said the following to Mr F; *'Okay, don't forget to go to the bank and it's a transfer in your name in your details.... So they will allow it with no problems'*. Mr F replied and said *'No worries'*. This suggests to me that Mr F was being coached by the scammer on what to tell the bank about the payment.

Because of this, I don't think reasonable enquiries from Revolut could have uncovered the scam and that's because I don't think Mr F would have been completely truthful about the scammers involvement in his investment.

I think any reasonable enquiries from Revolut would have likely led it to conclude that Mr F was buying crypto without any third-party involvement and that he had access to and control of his own crypto wallet.

I've noted Bank A refunded some of Mr F's loss and this is something it is entitled to do if it wishes. It wouldn't be fair or reasonable for me to suggest that Revolut should take the same action as Bank A if I don't think it could have reasonably prevented Mr F's losses.

In other words, I am satisfied a warning from Revolut probably would have made no difference to Mr F. Any failings by Revolut were not the dominant, effective cause of his losses; they were just part of the background history or occasion that led up to them.

In light of my conclusions above on whether a warning would have made a difference, it is unnecessary for me to go on to consider whether Mr F himself was partly to blame for what happened (contributory negligence). Indeed, I have already concluded that he was responsible for his own investment decisions, and that such choices were the proximate cause of his losses.

For the avoidance of any doubt, I did consider Mr F's subsequent transfers to the crypto exchange from his Revolut account. I don't think Revolut should reasonably have made any further enquiries as payments were substantially lower in value than the second payment and I don't think Revolut would have reasonably been concerned with the transfers that followed it.

My final decision

My final decision is, despite my natural sympathies for Mr F's losses, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr F to accept or reject my decision before 15 March 2024.

Dolores Njemanze
Ombudsman