

The complaint

Miss M complains that Revolut Ltd didn't do enough to protect her from the financial harm caused by an investment scam company, or to help her recover the money once she'd reported the scam to it.

What happened

The detailed background to this complaint is well known to both parties. So, I'll only provide a brief overview of some of the key events here.

In August 2022 Miss M was browsing social media when she saw an advert for an investment opportunity which was endorsed by a well-known celebrity. She completed a questionnaire and was contacted by someone claiming to be a broker who could help her to invest in cryptocurrency.

The broker asked questions about Miss M's marital status, current employment, and investment experience and helped her to open an account with Revolut. They also helped her to open an account with a cryptocurrency exchange company I'll refer to as "I" and told her to download Anydesk. On 2 August 2022, Miss M paid £240 to "I" with a debit card connected to her Revolut account.

After making this payment, Miss M contacted Revolut via live chat to tell it she'd been scammed, but the issue went no further because payment was returned to Miss M's Revolut account. The broker told her the payment was returned due to a problem with her identification documents, but Miss M chose not to invest any more at that time.

On 16 August 2022 Miss M received another call from someone claiming to be a broker working for a different investment company. The broker told her he could help her to invest in cryptocurrency and on 16 August 2022, she made a payment of £240 to a cryptocurrency exchange company I'll refer to as "C" using her Revolut card.

On 10 November 2022, Miss M received a call from someone claiming to work for "I". They told her some of their brokers had gambled the funds and it was paying its customers in cryptocurrency as compensation. She was told she'd have to open three channels to access the compensation, and between 11 November 2022 and 2 December 2022, she made ten further payments to two different cryptocurrency exchanges.

Miss M realised she'd been scammed when the broker became hostile and tried to pressurise her to pay the money. She contacted Revolut on 9 December 2022 to tell it she'd been scammed, but it refused to refund any money on the basis that it had provided effective warnings and she'd authorised the payments.

She wasn't satisfied and so she complained to this service with the assistance of a representative. She said she'd told Revolut she'd been scammed, and it failed to identify the payments had the hallmarks of a typical investment scam or to provide any education on how to avoid scams in future. She said she wasn't given any effective warnings and the pop-

ups she received ineffective as they simply asked if she was sure she wanted to make the payments.

Miss M's representative said Revolut should have intervened because she made twelve high value payments to five new payees which were cryptocurrency merchants. The payments were made in quick succession and totalled £18,331.00, so there were several occasions when it could have intervened to prevent the scam. They said there was no account history to compare the payments with because the account was opened for the purpose of the investment, and that the payments were unusual given their high value and the fact Miss M had rapidly withdrawn the balance of her account. Specifically, the representative said the three payments on 11 November 2022 were high value and made in quick succession.

They said Revolut should have contacted Miss M and asked why she was making the payment, whether there was a third party or broker involved, and if so, how she'd met them. It should also have asked whether she'd done any research, whether she'd checked the Financial Conduct Authority ("FCA") website, whether she'd been promised unrealistic returns, whether she'd received any withdrawals, and whether she'd been pressured into making the payments. And with the answers to the questions, it would have been apparent she was falling victim to a scam so it should have provided appropriate and specific warnings.

Our investigator didn't think Miss M had provided sufficient evidence to show she'd been scammed. He said there was evidence that she'd purchased cryptocurrency, but he couldn't be sure where the funds were sent to from her cryptocurrency wallet. He said we normally see correspondence between consumers and the scammers such as emails or WhatsApp messages to demonstrate the victim has made the payments as part of a scam, but Miss M hadn't provided this evidence.

He also said he didn't think the payments were unusual. He explained that when Miss M opened the account, she chose 'transfers' as the purpose, so he didn't think it was suspicious that she then made payments to other accounts in her name. He also noted the payments were low value and as Miss M didn't speak to or interact with Revolut when she made them, he didn't think it had missed an opportunity to identify they were being made in relation to a scam.

Finally, he explained that Revolut wouldn't have been able to raise a valid chargeback request and the Contingent Reimbursement Model ("CRM") code wasn't applicable because the payments were to another account in her name.

Miss M has asked for her complaint to be reviewed by an Ombudsman. Her representative has explained there's no correspondence between Miss M and the scammers because all communication was over the phone. And images of the trading account show a zero balance, which show the scammer was using Anydesk to send money to a different wallet. And the fact she learned about the investment on social media is a hallmark of a scam.

They have argued the more appropriate reason for opening the account would have been gaining exposure to financial assets, and the rapid deposits and withdrawals on the account should have raised concerns, especially on 26 November 2023 when she made two payments totalling £4,000.

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've reached the same conclusion as our investigator. And for largely the same reasons. I'm sorry to hear that Miss M has been the victim of a cruel scam. I know she feels strongly about this complaint, and this will come as a disappointment to her, so I'll explain why.

I've thought about whether Revolut could have done more to recover Miss M's payments when she reported the scam to it. Chargeback is a voluntary scheme run by Visa whereby it will ultimately arbitrate on a dispute between the merchant and customer if it cannot be resolved between them after two 'presentments'. Such arbitration is subject to the rules of the scheme — so there are limited grounds on which a chargeback can succeed. Our role in such cases is not to second-guess Visa's arbitration decision or scheme rules, but to determine whether the regulated card issuer (i.e. Revolut) acted fairly and reasonably when presenting (or choosing not to present) a chargeback on behalf of its cardholder (Miss M).

Miss M's own testimony supports that she used cryptocurrency exchanges to facilitate the transfers. It's only possible to make a chargeback claim to the merchant that received the disputed payments. It's most likely that the cryptocurrency exchanges would have been able to evidence they'd done what was asked of them. That is, in exchange for Miss M's payments, they converted and sent an amount of cryptocurrency to the wallet address provided. So, any chargeback was destined fail, therefore I'm satisfied that Revolut's decision not to raise a chargeback request against either of the cryptocurrency exchange companies was fair.

I'm satisfied Miss M 'authorised' the payments for the purposes of the of the Payment Services Regulations 2017 ('the Regulations'), in force at the time. So, although she didn't intend the money to go to scammers, under the Regulations, and under the terms and conditions of her bank account, Miss M is presumed liable for the loss in the first instance. Not every complaint referred to us and categorised as an investment scam is in fact a scam.

Some cases simply involve high-risk unregulated investments that resulted in disappointing returns or losses. Some of these investments may have been promoted using sales methods that were arguably unethical and/or misleading. However, while customers who lost out may understandably regard such acts or omissions as fraudulent, they do not necessarily meet the high legal threshold or burden of proof for fraud, i.e. dishonestly making a false representation and/or failing to disclose information with the intention of making a gain for himself or of causing loss to another or exposing another to the risk of loss (Fraud Act 2006).

I've carefully considered the circumstances, and I share our investigator's concerns that Miss M hasn't shown any evidence that her money was lost to a scam. This is because she hasn't produced any emails/messages showing communications with scammers. And I haven't seen evidence that there were funds in an account that she was unable to withdraw or that she was lied to or prevented from withdrawing money that she should have had access to. However, Miss M has said she communicated with the scammer by phone and her account of having been encouraged to use Anydesk is consistent with this having been as scam. So, I have considered whether Revolut could have done anything to prevent her loss.

Prevention

Although Miss M didn't intend her money to go to scammers, she did authorise the disputed payments. Revolut is expected to process payments and withdrawals that a customer authorises it to make, but where the customer has been the victim of a scam, it may sometimes be fair and reasonable for the bank to reimburse them even though they authorised the payment.

I've thought about whether Revolut could have done more to prevent the scam from occurring altogether. Buying cryptocurrency is a legitimate activity and from the evidence I've seen, the payments were to genuine cryptocurrency exchange companies. However, Revolut had an obligation to be alert to fraud and scams and these payments were part of wider scams, so I need to consider whether it ought to have intervened to warn Miss M when she tried to make the payments. If there are unusual or suspicious payments on an account, I'd expect Revolut to intervene with a view to protecting Miss M from financial harm.

The payments didn't flag as suspicious on Revolut's systems. Firstly, I've considered whether the fact there was an interaction on 2 August 2022 means Revolut should have intervened in the later payments, and I don't think it did.

I've also considered the nature of the payments in the context of whether they were unusual or uncharacteristic for the account, but there's no account activity to compare the payments with. When Miss M opened the account, she stated the reason was 'transfers', so I don't think Revolut needed to be concerned about the nature of the payments. And they were to legitimate cryptocurrency exchange companies, so the nature of the merchants wasn't concerning either. The highest payment was for £3,051 on 2 December 2022, and the highest cumulative spend for a single day was £4,055 on 11 November 2022. So, I don't think the payment amounts were cause for concern and I don't think Revolut missed an opportunity to intervene.

Finally, I'm satisfied that there was no reasonable prospect of a successful recovery because the payments were to an account in Miss M's own name and the money was moved out of the accounts.

Overall, I'm satisfied Revolut took the correct steps prior to the funds being released – as well as the steps it took after being notified of the potential fraud. I'm sorry to hear Miss M has lost money and the effect this has had on her. But for the reasons I've explained, I don't think Revolut is to blame for this and so I can't fairly tell it to do anything further to resolve this complaint.

My final decision

For the reasons I've outlined above, my final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss M to accept or reject my decision before 24 November 2023.

Carolyn Bonnell
Ombudsman