

The complaint

Ms R complains that Revolut Ltd (“Revolut”) won’t refund over £100,000 she lost as part of an investment 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, Ms R fell victim to an investment scam in April 2022 after she was contacted by a broker ‘Terra Markets’ (“the scammer”).

She was encouraged to invest, and accounts were opened in her name with several cryptocurrency platforms and electronic money institutions, including Wise and Revolut, which she was told were needed for trading. Ms R then made several payments from her bank accounts to her Revolut account. From her Revolut account, she says the scammer then made 14 payments to cryptocurrency platforms and her Wise account between 13 – 21 May 2022, totalling over £100,000, where her funds were then transferred to the scammer.

Ms R later realised she had been scammed and reported the fraud to Revolut, but it refused to refund the money she lost as she had authorised the payments. Unhappy with this, Ms R referred the matter to our service.

Our investigator didn’t uphold the complaint. She thought Revolut could have done more to question the payments Ms R was making to satisfy itself that she wasn’t being scammed. But given Ms R had lied to all her other banks when questioned, she didn’t think Revolut would have been able to prevent the loss if it had intervened. Ms R 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.

Authorisation

Ms R says that although she opened the Revolut account via her mobile device, she didn’t authorise the payments made from the account as they were made by the scammer. So, I’ve considered whether there’s enough evidence to suggest that Ms R authorised the payments or not.

The Payment Service Regulations (PSRs) 2017 say that a payment transaction is authorised by the payer where they have given their consent to the execution of the payment transaction. Such consent must be given in the form and in accordance with the procedure agreed between the payer and the payment service provider.

I understand that Ms R may not have physically made the payments herself. But Revolut has shown that the payments were authorised by SMS from her mobile device. Ms R says she was pressured by the scammer into authorising the transactions from her phone, who was initiating the payments via computer.

The PSRs 2017 do allow for payment transactions to be initiated by someone acting on behalf of the account holder, which can be agreed informally (e.g. by the account holder asking or permitting a third party to undertake a task on their behalf). And if the account holder has permitted a third party to appear as if they have the consumer's authority to make payment transactions, those payment transactions will likely be authorised, even in situations where the consumer didn't ask the third party to make payments or know about them.

In this instance, I'm satisfied Ms R was aware that payments were being made on her behalf and knew that the scammer was transferring money out of her Revolut account. She also agreed to the transfers by authorising them via SMS. I have therefore treated all of the disputed payments as having been authorised by Ms R. And the starting position in this scenario is that firms ought to follow the instructions given by their customers in order for legitimate payments to be made as instructed, with Ms R being presumed liable for the loss in the first instance.

However, I've considered whether Revolut should have done more to prevent Ms R from falling victim to the scam, as there are some situations in which a regulated firm should reasonably have had a closer look at the circumstances surrounding a particular transfer. For example, if it was particularly out of character.

Did Revolut do enough to prevent Ms R's loss to the scam?

I'm satisfied there was enough suspicious activity present on Ms R's account such that Revolut should have provided her with a written scam warning, and at some points even got in contact with her to discuss the payments she was making, such as the £18,900 payment she made on 14 May 2022, which marked a significant escalation in spending from the account.

But even accepting that Revolut should have provided a more impactful scam warning or blocked any of the payments prior to making further enquiries, I'm not persuaded this would have ultimately prevented the scam in any event. I say this because Ms R had been coached by the scammer to lie if she was questioned about any of the payments she was making. Indeed, when she was questioned by some of her other banks, she maintained that no one was asking her to make the payments, and that no one had told her to lie to the bank. She didn't disclose that the payment was for an investment, for example, and instead gave misleading answers such as saying the money was for home improvements and her father's operation.

Ms R says she wasn't coached specifically on what to say if she was questioned by Revolut. But I note that Ms R was in contact with the scammer at every step of the scam, who was pressuring her into agreeing to take out loans, make payments and lie to the banks when questioned. She said she was told that if she didn't comply with the scammers instructions that she would risk losing everything she had invested so far. As a result, it seems more likely than not that if Revolut had started asking questions, she would have been told to lie in the same way she had with her other banks. And given the warnings provided by her other banks, which were not acted upon, it seems unlikely that any tailored written scam warning Revolut could have provided would've had any impact either.

I note that Revolut did ask the reason for a £50 payment being made to Ms R's Wise

account on 20 May 2022, where the answer provided through the app was to a “Safe Account”. Revolut said it provided a warning in response to this, but given the high likelihood of this being related to a scam, it ought reasonably to have prevented the payment altogether until it was satisfied that this option had had been selected by mistake. However, for the reasons I’ve set out above, I still don’t think this would have ultimately prevented the scam, as Ms R would’ve likely been told what to say by the scammer (such as explaining that the payment was for her father or for home improvements, and that she was not being asked to transfer the money by anyone, which she had told her other banks).

So, overall, while I think Revolut ought to have done more in these circumstances, I’m not persuaded any form of intervention it could’ve made would have likely prevented Ms R’s loss, as it seems likely she would have provided false information in order to make the payments, as she did with her other banks. Therefore, I don’t think Revolut’s failure to intervene appropriately can reasonably be considered as the proximate cause of Ms R’s loss in these circumstances.

Recovery

I’ve also thought about whether Revolut could have done more to recover the funds after Ms R reported the fraud. However, all the faster payments made from the account were made to other accounts in Ms R’s own name, and we know they were swiftly transferred on again to the scammer. So, there would have been no prospect of Revolut being able to recover the funds from the receiving accounts in these circumstances.

I appreciate this will likely come as a disappointment to Ms R, and I’m sorry to hear she has been the victim of such a cruel scam. However, I’m not persuaded that Revolut can fairly or reasonably be held liable for her 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 Ms R to accept or reject my decision before 29 November 2023.

Jack Ferris
Ombudsman