

The complaint

Mr A complains that J.P. Morgan Europe Limited trading as Chase did not refund a series of payments he lost to a scam.

What happened

Mr A found an investment opportunity on social media that appeared to be backed by celebrities. I'll call the company 'X' for the purposes of this decision. He signed up and downloaded AnyDesk so they could help him with trades and he opened a Chase account as well as an account on a cryptocurrency exchange to facilitate the trades. He made the following transfers:

- 13/4/23 - £10.
- 13/4/23 - £2,490.
- 19/4/23 – profit of £151.98 credited to Mr A's Chase account.
- 24/4/23 - £20,000.

Mr A was asked to pay additional fees and take out loans to continue with the trades before he could withdraw any more profits. Eventually, he realised he had been the victim of a scam and notified Chase.

As the funds had been transferred to a legitimate cryptocurrency wallet in Mr A's name, and then forwarded on to the scammer, Chase was unable to recover the funds from the beneficiary. And they explained that they had intervened in the final two payments and provided warnings to Mr A, however he chose to continue with the payments. So, they did not think they needed to provide him with a refund.

Mr A referred the complaint to our service and our Investigator looked into it. They felt that the first payment was too small to warrant intervention from Chase but they saw there was a conversation during the second payment. They felt the warnings provided by Chase during the call were appropriate but Mr A chose to continue, so they didn't think this needed to be refunded.

However the final payment of £20,000 was of a high value and they didn't think the questions asked by Chase were probing enough, so they felt an opportunity to reveal the scam at that time was missed. But they also felt Mr A had contributed to the loss, so felt a 50% reduction in the redress was fair. Finally, they said 8% simple interest should be added to the redress.

Mr A accepted the findings, however Chase responded and said they had followed the correct processes at the time so did not think a refund was due.

As an informal agreement could not be reached, the complaint has been passed to me for a final decision.

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 Investigator for largely the same reasons and I recommend a refund of 50% of the final payment, along with 8% simple interest. I'll explain why in more detail.

I've reviewed the messages between Mr A and the scammer, and having done so, I'm satisfied he has been the victim of a scam. In deciding what's fair and reasonable in all the circumstances of a complaint, I'm required to take into account relevant: law and regulations; regulators' rules, guidance and standards; codes of practice; and, where appropriate, what I consider to be good industry practice at the time.

Broadly speaking, the starting position in law is that an account provider is expected to process payments and withdrawals that a customer authorises it to make, in accordance with the terms and conditions of the account. And a customer will then be responsible for the transactions that they have authorised.

It's not in dispute here that Mr A authorised the payments as he believed they were part of a legitimate investment. So, while I recognise that Mr A didn't intend the money to go to scammers, the starting position in law is that Chase was obliged to follow his instructions and process the payments. Because of this, Mr A is not automatically entitled to a refund.

The regulatory landscape, along with good industry practice, also sets out a requirement for account providers to protect their customers from fraud and financial harm. And this includes monitoring accounts to look out for activity that might suggest a customer was at risk of financial harm, intervening in unusual or out of character transactions and trying to prevent customers falling victims to scams. So, I've also thought about whether Chase did enough to try to keep Mr A's account safe.

I'm satisfied the initial payment of £10 was too small to reasonably have flagged as unusual in the circumstances. The second payment of £2,490, whilst of a higher value, was still not so significant that I think it warranted significant checks. Mr A had opened the Chase account recently prior to this payment, so there was little genuine account activity for Chase to compare this scam payment to. I can see this one did flag for additional questions, and I think the questions asked and warnings provided by Chase were proportionate to the risk level of the payment itself. So, on balance, I don't think Chase should reasonably have done more in relation to this payment.

Mr A went on to make a transfer of £20,000, which was a significant increase and a high-value payment. I note that when Mr A set up the payee, he selected the reason as 'moving his money', but when the payment flagged with Chase and a conversation was had, it became clear this was actually an investment. I think this, along with the size of the payment and gradual increase in values of the payments to the payee should have been a warning sign to Chase and made them ask further questions.

I think it would therefore have been reasonable for Chase to ask how Mr A found the investment opportunity. He did so on social media, with celebrities endorsing it and this is a known tactic of scammers. Again this would have been a warning to Chase this was likely a scam. Chase could then have provided more appropriate warnings and directed Mr A to check the Financial Conduct Authority ("FCA") registry for the company. I note there was a

warning on the FCA website about X that was added on 4 April 2023, and I think this, along with a tailored warning from Chase, could have broken the spell and revealed the scam to Mr A. As I think it missed an opportunity to meaningfully intervene and reveal the scam, I think it should reimburse Mr A the final payment of £20,000.

I also have to consider if Mr A should reasonably bear some responsibility for the loss. I note Mr A has already accepted the recommendation of a 50% reduction in the redress to account for his contributory negligence to the scam, so I won't go into this again in detail. In short, I do agree that a reduction is fair in this case, as I do think Mr A could reasonably have done more to ensure the individual and business he was dealing with was legitimate.

I've finally considered the terms and conditions of Mr A's account that were relevant at the time of the transaction. In summary, these explain that customers may receive a refund of payments made as part of a scam, unless certain situations apply, including if the customer should've known they were being tricked into sending money to a fraudster. As explained above, it has already been accepted that Mr A could have done more to ensure he was dealing with a legitimate business and investment, and on balance I think he could reasonably have known he was falling victim to a scam. So I don't think he stands to benefit from these terms and conditions.

Having carefully considered everything available to me, I agree that the final payment should be refunded as Chase missed an opportunity to reveal the scam prior to it being processed. And I think the redress should be reduced by 50% to account for Mr A's contribution to the loss. Mr A should also receive 8% simple interest on this from the date of the transaction to the date of settlement.

If Chase considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mr A how much it's taken off. It should also give him a tax deduction certificate if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.

My final decision

I uphold Mr A's complaint in part and direct J.P. Morgan Europe Limited trading as Chase to pay the redress outlined above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 29 March 2024.

Rebecca Norris
Ombudsman