

The complaint

Ms V complains that Revolut Ltd didn't do enough to protect her from the financial harm caused by an investment scam, 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 October 2022, Ms V received a cold call from someone I'll refer to as "the scammer" who claimed to work for a company which I'll refer to as "E". The scammer said they had found funds in a cryptocurrency wallet which Ms V had lost to a previous scam, and she would help her to get it back.

The scammer contacted Ms V regularly by phone, email and WhatsApp and when she decided to go ahead, she encouraged her to download AnyDesk remote access software and to open accounts with Revolut, a cryptocurrency exchange company, and an investment platform which I'll refer to as "C".

The scammer told Ms V to first purchase cryptocurrency through a cryptocurrency exchange company and then load it onto an online wallet. Between 4 December 2022 and 9 March 2023, she made 19 payments to four different cryptocurrency exchange companies using her Revolut card.

When Ms V ran out of money, the scammer encouraged her to take out a loan. She eventually realised she'd been scammed when she scammer became aggressive, and she was unable to make any withdrawals.

Ms V complained Revolut, but it refused to refund any of the funds she'd lost. It said Revolut had no liability because the money as it was paid from Revolut into Ms V's own accounts and subsequently lost to the scam. It said the first payment on 2 December 2022 had triggered its fraud system, but its financial crime team found that all payments into the account were from accounts in Ms V's name, so the alert was cleared, and she was allowed to use the account with no restrictions.

It said its accounts are typically opened and used to facilitate payments to cryptocurrency wallets, so the payments weren't out of character with the typical way in which EMI accounts are used. And the payments were consistent with the intended purpose of the account, so there was no reason for it to have been suspicious.

Our investigator didn't think the complaint should be upheld. He thought Revolut should have identified the payments as suspicious and contacted Ms V, but he didn't think this would have made a difference. He explained she'd been allocated an advisor to check transactions from her account at "Bank A" because she'd been scammed in the past, so she'd sent funds to "Bank B" before transferring them to Revolut to avoid the transactions being blocked. She

also said she'd done what the scammer asked because she was hoping to get some peace and quiet and to get her money back.

Our investigator felt this meant that even if Revolut had intervened Ms V would have misled it when questioned about the payments, so it wouldn't have detected the scam.

He also commented that even though Ms V was particularly vulnerable to being scammed, Revolut didn't know that and couldn't have made any adjustments to her exceptional circumstances. And he explained that she'd received a service from the cryptocurrency exchanges, so Revolut didn't act unfairly when it considered Ms V's chargeback claim.

Ms V has asked for the complaint to be reviewed by an Ombudsman. She's argued that she was vulnerable to financial crime, and she maintains that Revolut failed to identify the transactions as suspicious and that there was sufficient information available to justify stopping the payments altogether.

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 Ms V 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 Ms V'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 (Ms V).

Ms V'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 Ms V'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 Ms V '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, Ms V is presumed liable for the loss in the first instance.

There's no dispute that this was a scam, but although Ms V 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.

Prevention

Revolut was an emoney/money remittance provider and at the time these events took place it wasn't subject to all of the same rules, regulations and best practice that applied to banks and building societies. But it was subject to the FCA's Principles for Businesses and BCOBS 2 and owed a duty of care to protect its customers against the risk of fraud and scams so far as reasonably possible.

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 made to genuine cryptocurrency exchange companies. However, Revolut ought to fairly and reasonably be alert to fraud and scams and these payments were part of a wider scam, so I need to consider whether it ought to have done more to warn Ms V 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 Ms V from financial harm due to fraud. Apart from the alert on 2 December 2022, which was subsequently clear, the payments didn't flag as suspicious. I've considered Revolut's explanation around why the account was unblocked on 2 December 2022 and as she was attempting a large payment to a cryptocurrency exchange from a newly opened account, I think it should have done more.

When she made the second payment two days later, Ms V was paying a high-risk cryptocurrency merchant from a newly opened account having topped it up with funds from an overseas account, and the payment wasn't in line with the account opening purpose, which was 'transfers'. So, even though there wasn't any spending history to compare the payments with, I'm satisfied the payment was suspicious and that Revolut should have intervened.

It should have contacted Ms V via its live chat facility and asked why she was making the payment, whether there was a third party involved and if so how she'd met them, whether she'd downloaded remote access software, whether she'd been promised unrealistic returns, whether she'd made any withdrawals, whether she'd been coached to lie, whether she'd done any due diligence and whether she'd been advised to make an onwards payment from the cryptocurrency exchange.

However, if Revolut had done what I would expect it to have done on either 2 December 2022 or 4 December 2022, I think it's unlikely the scam would have been detected because even though it would have been clear that she was sending funds to a cryptocurrency merchant, I don't think she'd have provided enough information for it to have detected the scam.

It's clear from Ms V's communications with the scammer that she remained in close contact with her while she was making the payments and I think the scammer would have coached her on what to say if Revolut had intervened. Ms V accepts she didn't send funds to Revolut from Bank A because she thought it would block the payments and that she sent funds via Bank B and opened the Revolut account on the instructions of the scammer. This shows Ms V was aware that banks treat payments to cryptocurrency merchants as high risk and that she was prepared to follow advice on how to avoid this. So, I think it's likely the scammer would have coached her on what to say to Revolut and that she'd have followed this advice because she was determined to get her money back from the previous scam.

As I've stated above, even with limited information available I would expect Revolut to have warned Ms V about the risks associated with cryptocurrency, but I don't think this would have prevented her from making the payments. Ms V has been very open about the fact she was determined to make the payments because she wanted to recover the funds she'd lost

to the previous scam and in those circumstances, I don't think warning would have made any difference.

Compensation

the main cause for the upset was the scammer who persuaded Miss M to part with her funds and he hadn't found any errors or delays to NatWest's investigation, he didn't think she was entitled to any compensation.

Recovery

I don't think there was a realistic prospect of a successful recovery because Ms V paid accounts in her own name and moved the funds onwards from there.

I'm sorry to hear Ms V 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 Ms V to accept or reject my decision before 25 October 2024.

Carolyn Bonnell
Ombudsman