

The complaint

Mr S complains that Revolut Ltd won't refund money he lost when he fell victim to an investment scam.

Mr S is being represented by solicitors in this complaint.

What happened

The detailed background to this complaint is well known to both parties and has been previously set out by the investigator in their assessment. So, I won't repeat it again here. Instead, I'll focus on giving my reasons for my decision.

The complaint concerns several transactions totalling approximately £107,000 which Mr S made from his Revolut account over a period of four weeks in March and April 2023. Except for the first two transactions, which were transfers, Mr S used his Revolut debit card. The disputed transactions were made in connection with an investment opportunity which turned out to be a scam.

Mr S transferred funds into his Revolut account from his account with a high street bank "F". To deposit the funds into his 'investment account', Mr S sent the money to a cryptocurrency exchange for conversion into cryptocurrency. Once converted, the cryptocurrency was sent on to cryptocurrency wallets as instructed by the scammer. To fund some of the disputed transactions, Mr S took out two loans of £20,000 each from F and an online lender.

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.

In broad terms, the starting position at law is that an Electronic Money Institution ("EMI") such as Revolut is expected to process payments and withdrawals that a customer authorises it to make, in accordance with the Payment Services Regulations (in this case the 2017 regulations) and the terms and conditions of the customer's account.

But, taking into account relevant law, regulators rules and guidance, relevant codes of practice and what I consider to be good industry practice at the time, I consider it fair and reasonable that in March 2023 Revolut should:

- have been monitoring accounts and any payments made or received to counter various risks, including preventing fraud and scams,
- have had systems in place to look out for unusual transactions or other signs that might indicate that its customers were at risk of fraud (among other things). This is particularly so given the increase in sophisticated fraud and scams in recent years, which firms are generally more familiar with than the average customer,

- in some circumstances, irrespective of the payment channel used, have taken additional steps, or made additional checks, or provided additional warnings, before processing a payment – (as in practice Revolut sometimes does including in relation to card payments),
- have been mindful of – among other things – common scam scenarios, how the fraudulent practices are evolving (including for example the common use of multi-stage fraud by scammers, including the use of payments to cryptocurrency accounts as a step to defraud consumers) and the different risks these can present to consumers, when deciding whether to intervene.

I've considered that the disputed transactions were sent to a legitimate cryptocurrency exchange. I accept that buying cryptocurrency is a legitimate exercise. But by 2023, there had been an increased prevalence of investment scams involving cryptocurrency. Both the financial services regulator, the Financial Conduct Authority (FCA), and Action Fraud had warned of cryptocurrency scams. This type of insight is something that regulated businesses, including Revolut, ought to take notice of. And we know it did because it temporarily blocked the second transaction – a transfer of £750 on 24 March – and made further enquiries. For the sake of completeness, I don't think Revolut should have been concerned and intervened when Mr S authorised the first disputed transaction – also a transfer to the same beneficiary earlier that day for the sum of £15.

In relation to the second transaction, Revolut asked Mr S to confirm the purpose of the payment and, according to its records, he selected 'investment'. Mr S was then shown a scam warning covering the typical features of investment scams. After reviewing it, he could choose to cancel or proceed with the payment. The warning, which was shown over a couple of screens and couldn't be skipped, explained that fraudsters could contact customers (or they may see an advertisement online) offering a fake opportunity to make easy money. It went on to state that legitimate investments will never guarantee profit and won't be arranged over social media. And that investment companies will be registered with the FCA in the UK. I consider Revolut's intervention at the time was a proportionate response to the risk involved. But we know Mr S chose to proceed with the transaction regardless of that warning.

The next transaction wasn't authorised until 4 April. Given the amount (£3,000) and the fact that it was identifiably cryptocurrency related, I'm satisfied that Revolut ought to have recognised that it carried a heightened risk of financial harm from fraud. I think that a proportionate response to that risk would have been for Revolut to have provided a written warning specific to cryptocurrency investment scams, tackling some of the key features of the scam. But given that a written warning – albeit not cryptocurrency specific – only ten days prior didn't positively impact Mr S's decision-making, I'm not persuaded that a further warning would have prevented his loss. Mr S doesn't appear to have heeded the earlier warning which mentioned some of the typical investment scam features which applied to his circumstances. I'm not convinced a more targeted written warning about investment scams involving cryptocurrency would have had made him stop and investigate the opportunity further.

The next three transactions happened on 12 April. By the time Mr S authorised the third transaction that day (sixth overall), a pattern of increased activity on cryptocurrency spending had emerged. And there was a significant jump in the daily amounts involved. I consider Revolut should have taken additional steps when it received Mr S's instruction. In this instance, I think that a proportionate response to that risk would have been for Revolut to have gone beyond a written warning and carried out a direct intervention. It could have, for instance, directed Mr S into the in-app chat for an agent to make further enquiries. But, had it done so, I'm not persuaded it would have prevented Mr S's loss. I'll explain why.

Eight days after the transaction in question, two transfers from Mr S's account with F into his Revolut account were flagged for fraud checks. Mr S was required to phone the bank to discuss the transactions. I've listened to a recording of the relevant call. Mr S didn't answer F's questions truthfully on both occasions. He was asked about the reason for making the transfer and Mr S said he was moving funds to his Revolut account because he was getting some home improvement work done and wanted to pay builders who also banked with Revolut. During the second call, Mr S said he was buying material for the home improvement work and wanted to use his Revolut card. We know that these facts weren't true. In my view, Mr S went to some length to provide reassurances to F.

Mr S's representatives state the fraudster had provided a cover story in case the payments were challenged by his bank. They submit that the cover story wouldn't have worked with Revolut, given the transactions were cryptocurrency related. They also argue that had Revolut intervened at the earlier stage of the scam, it would have been a different experience for Mr S given he was desperate to recoup his losses when F ultimately questioned him.

I've carefully reviewed the chat correspondence between Mr S and the scammer and I'm not so sure that he was given a cover story or coached to lie. I say this because although on the day of the intervention he told the scammer that F had wanted him to call them to discuss the transactions, it wasn't until the following day that he apprised them of the event of that day – that he had to take out a loan from F who then questioned him why the money was going to Revolut. This suggests to me that the scammer possibly didn't know the ins and outs of the lending and the intervention until afterwards.

Even if I'm wrong about that, and Mr S was coached to lie outside of the available chat correspondence, I think the important detail to mention here is that it's not the specifics of the dishonesty itself, but the willingness. I accept that the Mr S's answers to F's questions are unlikely to have worked with Revolut. But it's equally possible that Mr S could have provided a different cover story. I can't say for certain how Mr S would have responded to Revolut's enquiries. In such circumstances, I need to make my decision on the balance of probabilities. In other words, what I consider to be more likely than not Mr S's response based on the information that is available.

What I have is contemporaneous evidence of Mr S misleading another business twice when questioned over the phone – three times if I include Mr S's reason for applying for a loan. While I acknowledge that the questions and warnings provided by F weren't specific to cryptocurrency scams, Mr S's answers suggest he was willing to mislead his bank – either because he'd been coached or out of his own volition. I appreciate that his representatives believe an earlier intervention by Revolut would have had a different impact. But I'm not convinced. At the time that I think Revolut ought to have made enquiries, Mr S had been corresponding with the scammer for nearly a month. The chat correspondence shows that they had built trust – the scammer was able to provide reassurances to Mr S whenever he raised any doubts.

What this means is that had Revolut taken additional steps and questioned Mr S at the time of the sixth transaction, or during the subsequent transactions, I'm not convinced that he would have responded honestly like his representatives have suggested.

I've also thought about whether Revolut could have done more to recover the funds once it became aware of the situation, as in some circumstances the money can be recovered. For the two transfers, Revolut says it managed to recover £15 when it contacted the beneficiary account provider. It isn't clear how quickly Revolut reached out to the beneficiary account provider, but I'm mindful that it wasn't until 9 May – over six weeks after these transactions

were made – that Mr S reported he'd been scammed. Chances of recovery in that instance would have been remote. As for the debit card payments, the recovery avenue would have been limited to chargeback. But Mr S's payments went to a cryptocurrency exchange. He wouldn't be able to make a successful chargeback claim in the circumstances because the merchant he paid did provide the service requested (i.e., conversion of fiat money into cryptocurrency). For completeness, Revolut couldn't attempt a chargeback against any other party.

In summary, I know that Mr S will be disappointed with this outcome. Not least because the matter has been ongoing for some time. I fully acknowledge that there's a considerable amount of money involved here, and that this incident has taken its toll on his wellbeing. Despite my natural sympathy for the situation in which he finds himself, for the reasons given, it wouldn't be fair of me to hold Revolut responsible for his loss.

My final decision

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 12 August 2024.

Gagandeep Singh
Ombudsman