

The complaint

Ms A complains that Revolut Ltd won't refund money she lost when she fell victim to an investment scam.

Ms A is being represented by a claims management company in her 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 just over £71,000 which Ms A made using her Revolut debit card over a three-week period in August 2022. They were made in connection with an investment opportunity, which Ms A subsequently discovered was a scam.

Ms A transferred funds into her Revolut account from her account with a high street bank "N". To deposit the funds into her investment account, Ms A 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.

Only £3,250 of the funds invested belonged to Ms A – the rest belonged to her parents which she invested on their behalf. Ms A was able to make one withdrawal of £1,022.67. So, the loss being claimed is just over £70,000.

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.

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 in August 2022 that 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.

EMIs are set up with the purpose of sending and receiving money and the type of payments they're generally used for tends to be somewhat different to banks and building societies. Often, the payments will be for larger sums. Where there's no previous account history, as was the case here, what should reasonably strike Revolut as concerning for a first payment isn't down solely to the transaction amount involved.

I haven't seen any other factors at play here such that, in my view, Revolut should have been concerned and ought to have questioned Ms A when she authorised the first two disputed transactions of £1,000 and £2,000 respectively. I acknowledge that Ms A was sending money to a cryptocurrency exchange. But that in and of itself doesn't mean that the transaction ought to have flagged as suspicious. Buying cryptocurrency is a legitimate exercise.

But by the time Ms A authorised the third transaction – £10,000 on 15 August – Revolut ought to have recognised that it carried a heightened risk of financial harm from fraud. This is because a pattern of increased activity on cryptocurrency spending had emerged. And there was a significant jump in the amounts involved. I consider Revolut should have taken additional steps when it received Ms A's instruction.

I think that a proportionate response to that risk would have been for Revolut to have provided a written warning specific to the scam risk identified. In this instance, the transaction was identifiably cryptocurrency related. So, I would have expected Revolut to have provided a written warning about cryptocurrency investment scams, tackling some of the key features. But, had it done so, I'm not persuaded that would have prevented Ms A's loss. I'll explain why.

A transfer from Ms A's account with N into her Revolut account on 15 August was flagged for fraud checks. Ms A was asked to phone the bank to discuss the transaction. I've listened to a recording of the relevant call. Ms A didn't answer N's questions truthfully. For instance, she was asked about the reason for making the transfer and Ms A said she just wanted to try digital banking and top up her Revolut account. When asked why move all the money, she said just because she wanted to. Ms A also told N that no one else had been involved in the transaction. None of these facts were true.

A further transfer on 19 August also triggered N's systems. Ms A gave the same reason for why she was transferring funds to her Revolut account. She added that she wanted to store her funds in that account. When asked if she intended to save the funds, Ms A responded positively and said Revolut offered a higher rate of return compared to N.

Ms A's representatives state that N's intervention was poor and should be excluded from consideration when deciding how she would have responded to Revolut's intervention. I can't say for certain how Ms A would have responded to Revolut's warning. 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 Ms A's response based on the information that is available.

What I have is contemporaneous evidence of Ms A misleading another business on two separate occasions when questioned over the phone. I acknowledge that N's questions and warnings weren't specific to cryptocurrency investment scams. But Ms A's answers suggest she was willing to mislead her bank. Specifically, in the second call, she lied about why she was moving her money.

Although I haven't seen the full communication between Ms A and the scammer – her representatives have had the opportunity to provide this information – based on her answers it seems likely that she was being coached on how to answer questions from her bank. Given her actions, I'm not persuaded that a more specific warning about cryptocurrency scams would have made any difference to her decision-making.

Even if I were to make a finding that Revolut ought to have made enquiries – either during the payment flow or through its in-app chat – at the time of the third transaction or during the subsequent transactions, I'm not convinced that Ms A would have responded honestly like her representatives have suggested.

What this means is that in the circumstances of this case, I don't consider Revolut acted unfairly in executing the payment instructions it received from Ms A. It follows that I don't find it liable for her financial loss.

In summary, I know that Ms A will be disappointed with this outcome. Not least because the matter has been ongoing for some time and the investigator had originally uphold the complaint. I fully acknowledge that there's a considerable amount of money involved here. Despite my natural sympathy for the situation in which Ms A finds herself, for the reasons given, it wouldn't be fair of me to hold Revolut responsible for her 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 Ms A to accept or reject my decision before 23 July 2024.

Gagandeep Singh
Ombudsman