

## The complaint

Mr B complains that Wise Payments Limited (Wise) won't refund money he lost in an investment scam.

## What happened

### *What Mr B says:*

Mr B says he had recently come to the UK to escape the war in Ukraine. He lost all his possessions because of the war and was looking to invest the last of his money to try to rebuild and provide for his family in the UK.

In September 2023, he was looking for investments and was contacted by someone from an 'investment' firm (which I will call 'company A').

He had no investment experience but had heard his was a good way to make money.

He was provided with evidence of company A's website and the contact created an account for him in it. He installed screen sharing software. He was told how to trade. He was told returns could be 38-43%.

The contact accessed Mr B's account with Wise using the screen sharing software and sent various amounts to company A. These included amounts paid for 'insurance' and 'letters of credit'. **(continued)**

Date	Payment	Amount
12 September 2023	Faster payment to person 1	£3,820
12 September 2023	Faster payment to person 2	£2,700

18 September 2023	Faster payment to person 3	£2,500
18 September 2023	Faster payment to person 4	£2,500
19 September 2023	Faster payment to person 5	£5,000
19 September 2023	Faster payment to person 6	£3,625
27 September 2023	Debit card to crypto exchange	£8,950
28 September 2023	Faster payment to person 7	£2,695
<b>Total</b>		<b>£31,790</b>

He realised he'd been scammed when he tried to withdraw his investment funds. He reported the scam to Wise on 28 October 2023.

As a result, Mr B lost the remainder of his money.

Mr B complains that Wise should've seen these were unusual payments and intervened to protect him, but didn't. He says he didn't get any messages or contact from Wise. He says the firm should refund the money he's lost – under the Contingent Reimbursement Model Code (CRM).

*What Wise said:*

Wise didn't refund any money and said they couldn't reverse completed payments.

*Our investigation so far:*

Mr B brought his case to us. Our investigator upheld his complaint and said Wise should refund all the money except the first payment of £3,820. She said:

- On 12 September 2023, spending had exceeded £5,000 and this should've alerted Wise.
- She hadn't seen any indication that Wise gave Mr B any warnings. And had they done so, it's a reasonable assumption the payments would've been prevented.
- She didn't think there should be any deduction for contributory negligence. She considered this to be a sophisticated scam. There wasn't any evidence of company A online suggesting they were scammers.

After our investigator issued her first view, Wise came forward with information.

In their submissions to us, Wise said:

- They are an Electronic Money Institution (EMI) and it is usual for customers to make large one-off payments. So, the payments weren't considered unusual.
- They provided a general scam warning and two warnings for the first two payments.
- Mr B selected 'sending money to yourself' as the transfer purpose and decided to go ahead with the payments.
- He should've selected 'investment' and he would then have been presented with an investment scam warning.
- That said, Wise accepted they could've provided more warnings for later transfers,

- but didn't.
- So Wise accepted they should refund £31,790, but argued there should be a 50% deduction for contributory negligence on the part of Mr B.
  - Wise said the returns promised were too good to be true; the scammer had reached out to Mr B without any contact from him; he hadn't carried out sufficient research into company A; and he had allowed the scammer to control his account using screen sharing software. Wise said these were all red flags which Mr B should've seen.

*Our investigator said there shouldn't be any deduction for contributory negligence. She said:*

- Because Mr B was looking to invest and had done some searching - to be contacted by the scammer didn't appear unusual or a surprise to him.
- There didn't appear to be anything about company A online, so Mr B couldn't have been expected to have seen any warnings.
- Screen sharing software was a common thing in such scams, and a reasonable person wouldn't have considered this to be unusual.
- She said Wise should refund £27,970 plus interest at 8% per annum simple.

Mr B accepted this, but Wise didn't and so Mr B's complaint has come to me to make 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.

I'm sorry to hear that Mr B has lost money in a cruel scam. It's not in question that he authorised and consented to the payments in this case. So although Mr B didn't intend for the money to go to a scammer, he is presumed to be liable for the loss in the first instance.

So, in broad terms, the starting position at law is that a bank is expected to process payments and withdrawals that a customer authorises it to make, in accordance with the Payment Services Regulations and the terms and conditions of the customer's account. And I have taken that into account when deciding what is fair and reasonable in this case.

But that is not the end of the story. Taking into account the law, regulators rules and guidance, relevant codes of practice and what I consider to have been good industry practice at the time, I consider Wise should fairly and reasonably:

- Have been monitoring accounts and any payments made or received to counter various risks, including anti-money laundering, countering the financing of terrorism, and 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 banks are generally more familiar with than the average customer.
- In some circumstances, irrespective of the payment channel used, have taken additional steps, or make additional checks, before processing a payment, or in some cases declined to make a payment altogether, to help protect customers from the possibility of financial harm from fraud.

I need to decide whether Wise acted fairly and reasonably in its dealings with Mr B when he made the payments, or whether it should have done more than it did. I have considered the position carefully.

The Lending Standards Board Contingent Reimbursement Model Code (CRM Code) provides for refunds in certain circumstances when a scam takes place. Mr B has said he should be reimbursed under the Code. But – it doesn't apply in this case. That is because Wise hasn't signed up to the voluntary Code.

Following our investigation, Wise accepted they could've done more to alert Mr B to the payments he was making and the risks involved. Wise agreed to refund the full amount of the payments he'd made. Our investigator said Wise should refund all of the payments except the first one. Given this agreement, I don't need to consider whether Wise need to refund the payments or not in the first instance – as both we and Wise agree on that point.

### **Contributory Negligence**

So, my decision comes down to whether there should reasonably be a deduction for contributory negligence here. Our investigator says there shouldn't be - but Wise argues there should be a deduction of 50%.

In considering contributory negligence, we consider what standards would be expected of a reasonable person in the circumstances. Would a reasonable person have fallen for the scam? And was Mr B vulnerable to such a scam – which would mean that he was more likely to be convinced of the scam and not be suspicious.

In all honesty, this is a difficult and balanced decision. *On the one hand*, I accept that:

- Mr B couldn't clearly evidence what research he had done- and there was no information about company A online. Wise say that the absence of information should've been a red flag to Mr B.
- He gave access to his Wise bank account by agreeing to download a screen sharing software. Wise say this is against their terms and conditions.
- Payments were made to seven personal individuals – not to company A or any such investment firm.
- He didn't apparently seek any advice from anyone such as a trusted friend.
- He was contacted 'out of the blue' by the investment adviser.
- The returns of around 40% were too good to be true.

These are all reasonable arguments in favour of a deduction for contributory negligence – i.e. Mr B could've done more to protect himself in view of these red flags..

*On the other hand*, I can see:

- In this case, I think it's reasonable to consider Mr B's personal circumstances at the time – he was new to the UK, had limited use of English or how markets operate. Having lost all his money in the war, he was keen to start to rebuild his finances again – all of which made him vulnerable to such a scam, and be less likely to see and challenge any red flags. I consider this to be a key point in this case.
- Mr B was seeking out investments, so when he was contacted, that seemed consistent with what he was trying to do.
- There wasn't any mention of company A online – I don't think it is fair to say this means that Mr B should be wary. I don't agree that no knowledge should be a red flag.
- While it wasn't a wise thing to allow screen sharing software to be downloaded to his device, it is clear that Mr B was completely taken in by the scammers and trusted them. He was convinced this was the right and normal thing to do.

- Because of this, he wouldn't have been aware that seven individuals were being paid – as he didn't make the payments.
- Returns on crypto currency of say 50% - while high – were probably possible, given the volatility of those investments.
- I can see that Mr B was given a convincing 'Financial Conduct Authority' certificate and 'International Monetary Fund' letter of guarantee – so the scam was convincing.

Therefore, I don't think it is reasonable to make a deduction for contributory negligence in the circumstances of this case.

### **Recovery**

We expect firms to quickly attempt to recover funds from recipient banks when a scam takes place. I looked at whether Wise took the necessary steps in contacting the bank that received the funds – in an effort to recover the lost money. I couldn't see that they'd contacted the recipient bank – but I'm persuaded that had they done so, no funds would've remained – as they'd been moved immediately to the crypto trading platform.

### **Putting things right**

Wise must refund £27,970 (all the payments less the first payment of £3,820).

### **My final decision**

I uphold this complaint. Wise Payments Limited must:

- Refund £27,970 plus interest at 8% per annum simple for the date of the payments to the date of settlement.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 4 November 2024.

Martin Lord  
**Ombudsman**