

The complaint

IMA, a limited company, complains that Wise Payments Limited did not refund a series of payments it says it lost to a scam.

Mr V is the director of IMA and has brought the complaint on its behalf. In the interest of simplicity, I will mostly refer to him throughout this decision.

What happened

Mr V was actively looking for investment opportunities in early January 2021 and found two companies he was interested in. I'll call them 'L' and 'B' for the purposes of this decision. For each of these investment opportunities, he was given access to an advisor who would help facilitate trades in commodities and in companies such as Tesla and Amazon. He had access to online platforms where he could see his trades, and he received a small amount of returns for B, as well as significant returns for L.

Mr V eventually felt both companies were operating as scams. For B, he was told he had lost significant funds on trades, so he needed to keep investing to be able to make additional trades to recover. After some time, he was told that in order to withdraw his balance of over a million pounds, he needed to pay various fees. Mr V had significant doubts about the validity of the fees and charges but paid these on a number of occasions. Eventually, when he still did not receive his returns, he blocked the company and realised he had been the victim of a scam.

For L, Mr V invested a significant amount of money in the company across various accounts he held, and between early 2021 and late 2022, he received returns somewhere in the region of £150,000. In November 2022, Mr V felt he had been lied to by L so they could get more money from him, and he felt he had been scammed. He made the following payments from IMO's account with Wise:

Date	Amount	Scam
16/02/2021	15,250.28 EUR	B
17/02/2021	36,040.32 GBP	L
18/02/2021	25,000.32 GBP	L
22/02/2021	15,250.28 EUR	B
22/02/2021	10,000.32 GBP	L
23/02/2021	12,500.28 EUR	B
24/02/2021	21,300.32 GBP	L
09/03/2021	30,000.32 GBP	L – returned immediately
09/03/2021	50,500 GBP	L
09/03/2021	50,000 GBP	L – returned immediately
26/03/2021	10,000.28 EUR	B
27/03/2021	2,550.32 GBP	L – returned immediately
31/03/2021	10,000.28 EUR	B
05/04/2021	13,159.03 EUR	B
24/05/2022	65,552.09 EUR	L

25/05/2022	117,503.83 EUR	L
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The total amounts paid out of IMA's account have varied in the complaint letter, Wise's responses and the statements, but these appear to be an agreed upon list. Mr V received returns of approximately £150,000 across various accounts including IMA's business account.

Mr V raised a scam claim with Wise in June 2023. Wise issued a final response letter and explained that they had processed the payments for IMA as directed by Mr V, so they did not agree to uphold the complaint. In their business file to our service, they said that the payments did not cause Wise concern as Mr V had an extensive account history with them in the form of a personal account and a business account, in which he frequently sent payments to a number of recipients in various currencies.

Mr V referred the complaint to our service and our investigator looked into it. They felt that B was a scam, but they did not think it was clear if L was a scam or not, as they still appeared to be operating two years after Mr V's last interactions with them. And while they recognised there was a warning about L operating while unregulated in the United Kingdom on the Financial Conduct Authorities ("FCA") website, they did not think this was evidence of a scam. They did not agree that the majority of the payments from the business account warranted intervention, due to the type of genuine payments that occurred on the account. But they recognised the final payments of €117,503.83 was of a significant value and that Wise should arguably have contacted Mr V to discuss it further.

But they did not think an intervention at that time would have made a difference as Mr V had been investing with L for over a year, he did not appear to have concerns about them and he had been receiving regular returns. They also did not think IMA had suffered a loss, as they thought it was more likely Mr V was investing on his own behalf, rather than on behalf of IMA. This would mean that Mr V owes the money lost to IMA and it should therefore not be recovered from Wise.

Mr V's representatives did not agree with the findings. They argued that L was a scam and set out their reasons for this. And they felt there were enough hallmarks of a scam with B and L that intervention from Wise would have uncovered it and prevented further payments. Finally, they argued that Mr V had invested on behalf of IMA and pointed out some of the returns were paid directly into IMA's account.

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.

As the payments were either to international accounts or were made in euros, they are not covered by the Lending Standards Board's Contingent Reimbursement Model ("CRM") Code, which provides additional protection to victims of authorised push payment ("APP") scams such as Mr V.

I've firstly considered whether the payments in question were made to scams, as Mr V has described. Having done so, I'm satisfied that B has the hallmarks of an investment scam. Mr V received token returns at the start of the process of around £5,000, and towards the end was told he had to pay various fees, taxes and charges to access the million pounds that B said was remaining in the account. However, each time he paid there was another excuse

as to why they needed more money before he could withdraw the funds.

I've gone on to review L and I can see it was licensed in a different country to trade securities as an agent, but I do note that in January 2021 the Financial Conduct Authority issued a warning that it was not registered in the United Kingdom to trade. But this alone does not mean it set out to defraud Mr V and take his money without providing him with a legitimate service.

Having looked into L further, I can see its license to trade securities in a different country was revoked in June 2022 but it continued to trade and still appears to have a website today. Mr V sent L a significant sum of money between January 2021 and late 2022, though it is difficult to quantify exactly how much due to the various accounts and currencies involved. But he also received around £150,000 in returns and while I recognise this was just a portion of what he sent; this was still a significant sum to receive back, which is not what we would generally expect to see if L was a scam. With all of this in mind, I can't say with certainty whether L was a scam, but to be fair to Mr V I have gone on to make an assessment as if he was 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 V authorised the payments in question as he believed they were part of a legitimate investment. So, while I recognise that he didn't intend the money to go to scammers, the starting position in law is that Wise was obliged to follow his instruction and process the payments. Because of this, he 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 Wise did enough to try to keep IMA's account safe.

IMA had an existing account with Wise and I can see it was not unusual for it to make high value payments and transactions. From the statements I've seen from 2020 to late 2022, it regularly received high value inbound payments from various companies from around €12,000 to £124,000. As the account dealt in large transactions and the payments related to the scam were to a number of different payees, were sporadic in frequency and often were not of a value uncharacteristic to the account, I don't think that the majority should reasonably have warranted an intervention from Wise.

I can see our Investigator felt the final payment may have warranted an intervention due to its significant value. The earlier payment of €65,552.09 was to the same payee, and this was made following a significant credit to IMA's account of £124,000 from a genuine company. On the same day, Mr V appears to have made transfers to other, unrelated investments totalling just over €30,000. Considering all of this, I don't think the payment of €65,552.09 warranted an intervention. But I agree it could be argued that the payment of €117,503.83 the following day should have had an intervention. While it was now to an existing payee, it

brought the total sent to the payee to over €180,000 in just two days. And I therefore think a telephone conversation with Mr V would have been a reasonable response to the risk level the payment posed.

I've gone on to consider whether an intervention from Wise would reasonably have uncovered the scam. Having carefully considered everything available to me, I don't think intervention at that point would have broken the spell of the scam. I'll explain why in more detail.

I have firstly considered an earlier intervention in late January 2021 for one of the first payments made towards the scams that a third-party bank carried out. In this, Mr V was asked some basic questions about the investment such as where he found it and if he had carried out reasonable checks including the FCA website to see if they were regulated. Mr V confirmed he had been dealing with the company for some time, had checked them out and was happy they were genuine and in the call he came across as relatively confident and relaxed about the payment. As I do not think Mr V's answers had cause to give the third-party bank concern, I thought it was unlikely further intervention would have revealed the scam in the circumstances.

I do recognise that the situation had changed somewhat between the initial payments and the ones Mr V made from IMA's account. Mr V had been trading with L for around 13 months by that point and appeared to have built a relationship with the account managers he had used. While he had lost money on trades, he did appear to have made around \$88,000 and just over €32,000 in returns by that point, though it is difficult to quantify the exact returns with the evidence I have been provided. While I do accept Mr V's representative's argument that these returns were a smaller percentage of what Mr V had put into the investment, I still think that the value of the returns was significant enough that both Mr V and Wise would not have had significant concerns at that stage. So, I think it's unlikely an intervention from Wise would have meaningfully revealed the scam.

Mr V's representatives have highlighted that there was a warning on the FCA website that L was not registered in the United Kingdom and that the advert for them featured a celebrity. They felt these would have been red flags to Wise that L was a scam. I firstly think it is unlikely Mr V would have gone into detail about L and the fact he was using them, considering the earlier intervention by the third-party bank and the limited information he shared with them. I also have to consider that in correspondence I have seen, Mr V refers to L's license to trade in a separate country, including their specific license number. So, I think he had carried out some research into the company and found they had a license, albeit not in this country. So, I think he was reasonably convinced they were legitimate at that time, and I don't think a meaningful intervention from Wise would have uncovered either scam in the circumstances.

I recognise that by the time Mr V made this payment from Wise, L's license had been revoked in the country it was issued. However, as Mr V appeared to have already looked this up, had been dealing with L for 13 months by that point and had received a significant amount of returns, I think it is unlikely he would have looked into this a second time if Wise had asked if he was satisfied L was a genuine company. And I don't think they need to reimburse him because of this.

Even if I were to agree that an intervention would have made a difference, I am not satisfied that IMA has suffered a loss in the circumstances. When Mr V brought his complaint to our service, as well as other cases linked to the same complaint, he said he had been wanting to diversify his portfolio and this is why he had searched for the investment opportunities. When asked by our service previously whether he was investing for himself or on behalf of IMA, Mr V confirmed he was investing on his own behalf. However, he has since said that he was

investing on behalf of IMA as a business deal had ended and it needed more income.

This is a significant shift in Mr V's testimony, and I can see this has happened on a few other occasions during our service's assessment of his complaint. For example, he was asked if he had received money as a gift from his father or if he was investing on behalf of his father. On different cases Mr V gave different answers, that it was both a gift and that he was making an investment for his father, and looking at the evidence from the scam, it appears some investments were on behalf of his father. It is therefore difficult for me to place much weight on Mr V's testimony in the circumstances due to this shift in his version of events.

I can see that the majority of the returns were received into Mr V's separate accounts with third-party account providers and the returns received into IMA's account were not until after the payment of €117,503.83. And the returns received into Mr V's third-party personal accounts were not then transferred into IMA's account. Which suggests Mr V used the funds from IMA's account in a personal capacity for a personal investment. I have also seen nothing from IMA to suggest the investment was a business decision or that it was included in the business accounts.

With all that in mind, I can't conclude that IMA's funds were invested on behalf of IMA, as I think Mr V used IMA to invest personally. IMA therefore is not the one who has suffered a loss and Mr V owes the money to IMA.

I've finally considered if Wise did what it should have done once it was made aware of the scam. On balance, I think that had Wise contacted the beneficiary banks once it became aware of the scams, it would not have been able to recover the funds. I say this because Wise confirmed it would need a police report to contact the international banks to request a return of the funds. In any event, as a significant period of time had elapsed between the payments being made and the scam being reported, I think it is unlikely that any funds would have remained in the beneficiary account that could have been recovered.

My final decision

I do not uphold this complaint against Wise Payments Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask IMA and Mr V to accept or reject my decision before 13 December 2024.

Rebecca Norris
Ombudsman