

The complaint

Miss R complains that Wise Payments Limited 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 December 2022, Miss R was referred by a friend to someone I'll refer to as "the scammer" who said he'd help her to invest in cryptocurrency. The scammer told Miss R he worked for an investment company and that she would be making investments into stocks and shares in large companies.

The scammer communicated with Miss R via WhatsApp and told her to buy a new laptop and to download AnyDesk remote access software so he could help her with her investments. He also told her to open accounts with "R", "Wise", and a cryptocurrency exchange company, which I'll refer to as "C". The scammer asked her to first purchase cryptocurrency through C and the load it onto an online wallet. Between 14 December 2022 and 17 February 2023, she made sixteen faster payments from her Bank H totalling £88,020.19. Between 21 December 2022 and 30 January 2023, she made five faster payments from Wise totalling £49,555.19. And between 27 January 2023 and 24 February 2023, she made eight payments from Bank C totalling £68,990. All these payments were to accounts in Miss R's own name. Then, between 24 February 2023 and 6 June 2023, she made seven payments from R to a cryptocurrency account in her name totalling £43,030, (of which £1,500 was returned to the account).

When she'd used up her savings, the scammer told Miss R to take out loans to fund the investments, and in February 2023 she was passed to a more senior broker to discuss larger investments. She realised she'd been scammed when she didn't receive any returns on her investments, and she lost contact with the scammer.

She complained to Wise but it refused to refund any of the money she'd lost. It said it wasn't liable for circumstances beyond its control, such as when a loss occurs as a result of fraudulent behaviour after a payment has been made. And it can only control and monitor activities in relation to its own customers while a transaction is pending in its system prior to being sent to the recipient bank.

It said it sent a recall request to the receiving banks and hadn't received a response, and as the transfers were completed several months before Miss R reported the scam to it, there was little to no chance that the funds would still be available. It also said the funds were transferred to external accounts in Miss R's name, and once a transfer has been sent to the recipient account it can't be cancelled.

Miss R wasn't satisfied and so she complained to this service stating that the scammer had opened the Wise account on her behalf.

Wise further commented that Miss R opened the account on 15 December 2022, so there was no spending history to compare the payments with. It argued that as it's a money remittance service, it's normal for its customers to open accounts and make multiple transfers to new recipients.

It said it asked Miss R about the purpose of three of the transfers and she selected "sending money to yourself". She was then shown scam warnings which she disregarded before proceeding with the payments. It said it shows scam warnings based on the transfer purposes selected by the consumer and it would have shown a more appropriate warning if Miss R had disclosed that she was making an investment. It said it can't be held responsible for a customer answering questions untruthfully and then not receiving relevant warnings as a result.

Our investigator didn't think the complaint should be upheld. He thought that based on the value of the payment, Wise should have spoken to Miss R about the second payment, but he didn't think it would have made any difference. He explained Miss R chose the incorrect payment purpose and had received a generic warning for safe account scams and he thought that if Wise had asked probing questions about the payment it's unlikely it would have detected the scam.

He commented that Miss R was asked questions by Bank H about transfers she was making from that account between 14 December 2022 and 15 December 2022. For the first three transfers, she selected 'purchase' for the payment purpose. And during a call on 14 December 2022, she said the payment was for property renovation work, she was given the payee details in person. On 15 December 2022, she had a further call with Bank H when she confirmed there was no third-party involvement and that she was moving funds to an account in her own name to top up the account.

Our investigator further noted that on 13 January 2023, Miss R attempted to make a transfer from Bank N to another account in her name. Bank N blocked the payment and questioned Miss R about the transfer, when again she said the funds were intended for home improvements. Bank N asked for evidence of this and warned her she'd likely fallen victim to a scam. It then invoked the banking protocol, and eventually closed the account.

He also listened to recordings of calls Miss R had with Bank C on 23 February 2023, 24 February 2023, and 27 February 2023. During the calls, Bank C asked about the purpose of the payments and gave a basic scam warning. Miss R said she was moving money either to save it or because she wanted to spread her funds across her various accounts.

Our investigator felt that Miss R's interactions with her other banks demonstrated her determination to send the funds to the scam despite having been presented with warnings, so even if Wise had asked more probing questions, it wouldn't have stopped the scam.

Finally, he said there wasn't a realistic prospect of a successful recovery because the payments were made to an account in Miss R's name and moved on from there.

Miss R has asked for her complaint to be reviewed by an Ombudsman.

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 Miss R 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'm satisfied Miss R '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, Miss R is presumed liable for the loss in the first instance.

There's no dispute that this was a scam and even though there have been some inconsistencies in Miss R's account of what happened, on balance, I accept she was scammed. But although she didn't intend her money to go to scammers, she did authorise the disputed payments. Wise 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

Wise 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 Wise could have done more to prevent the scam from occurring altogether. Wise 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 intervened to warn Miss R when she tried to make the payments. If there are unusual or suspicious payments on an account, I'd expect Wise to intervene with a view to protecting Miss R from financial harm due to fraud.

Wise intervened before three of the payments. Miss R was asked about the purpose of the payments in response to which she selected "sending money to yourself". She was then given a warning relevant to that selection before she proceeded with the payments. I've considered whether the intervention was proportionate to the risk presented by the payments and as Miss R was paying an account in her own name from a newly opened account, I'm satisfied that, for the first payment, the intervention was proportionate.

The second payment was for £16,110 and even though it wouldn't have been apparent that Miss R intended to buy cryptocurrency, and she'd transferred funds to the same account two days prior, I agree with our investigator that Wise ought to have intervened. However, I note Miss R was asked for the purpose of the payment and was then given a warning that was relevant to her response and in the circumstances, I'm satisfied that was sufficient. I'm also satisfied that Wise was prevented from detecting the scam because of the response payment purpose Miss R selected.

I've considered what would have happened if Wise had contacted Miss R to ask some probing questions, but I don't think it would have detected the scam. This is because Miss R has explained that she'd been coached to lie and so I'm satisfied the scammer would have guided her to provide satisfactory responses to Wise's questions. There's also evidence from the payment purpose she selected when making the payments from the Wise account as well as her interactions with her other banks that she had no intention of disclosing the

real purpose of the payments, so I don't think she'd have answered truthfully, and the scam wouldn't have been detected.

Recovery

I don't think there was a realistic prospect of a successful recovery because Miss R paid an account in her own name and moved the funds onwards from there.

Compensation

The main cause for the upset was the scammer who persuaded Miss R to part with her funds. I haven't found any errors or delays to Wise's investigation, so I don't think she is entitled to any compensation.

I'm sorry to hear Miss R has lost money and the effect this has had on her. But for the reasons I've explained, I don't think Wise 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 Miss R to accept or reject my decision before 14 January 2025.

Carolyn Bonnell
Ombudsman