

## **The complaint**

Ms R complains that Chetwood Financial Limited (“Chetwood”) are unfairly holding her liable for two loans that were taken out in her name as part of an investment scam.

## **What happened**

The details of this complaint are well known to both parties, so I won’t repeat everything again here. In brief summary, Ms R fell victim to an investment scam in April 2022 after she was contacted by a broker ‘Terra Markets’ (“the scammer”).

She was encouraged to invest, and accounts were opened in her name with several cryptocurrency platforms and electronic money institutions such as Wise and Revolut, which she was told were needed for trading. Ms R then made several payments from her bank accounts to her Wise and Revolut accounts. The funds were then transferred on again to the scammer.

As part of the scam, Ms R says that the brokers applied for loans on her behalf from several lenders, including two £12,000 loans with Chetwood (through its trading names of ‘LiveLend’ and ‘BetterBorrow’). Ms R said she objected to the loans being taken out but felt that she didn’t have a choice. Ms R started to cancel some of the loans she had received emails about, but the two Chetwood loans were paid into her account, where the proceeds were subsequently transferred to the scammers.

Ms R reported the fraud to Chetwood after she realised she’d been scammed. It said that she wouldn’t be bound by the credit agreement given she said she didn’t have any knowledge of its terms. But as the loans were applied for using information she had given to the scammers – and because she had received the funds – it said she would still be liable to repay the loan capital. Unhappy with this, Ms R referred the matter to our service.

Our investigator didn’t uphold the complaint. He was satisfied Ms R was aware that a loan was being taken out on her behalf, so he didn’t think it was unfair for her to be held liable for repaying it. Ms R disagreed, so the matter has been escalated to me to determine.

## **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 agree with the conclusions reached by the investigator and have decided not to uphold it.

As part of the scam, Ms R says the fraudster took out several loans in her name on her device via remote access software. This included the two £12,000 loans taken out through Chetwood and Ms R is unhappy that she’s being held liable for this debt. I’ve therefore considered whether it’s fair and reasonable for Chetwood to expect her to pay this back, or if

it should write the debt off.

Section 83 of the CCA 1974 sets out that a person won't be held liable for a debt if it was taken out by another person who wasn't acting as their agent. So, I've considered the extent to which Ms R was involved in the loan application with Chetwood, and whether she ought reasonably to have known that she had received the proceeds of a loan into her account.

When the loan was being applied for, Ms R says her screen was moving very quickly, and that she couldn't keep up with what the scammer was doing on her computer. However, she was nonetheless aware they were taking out a loan in her name, and says she also gave information for them to be able to complete the loan application, as she was concerned she would lose her investment profits if she didn't cooperate. She says she was also told that the company would pay the interest and charges of the loans.

I understand Ms R thought she could cancel the loans later, which for some she was able to do so. But it appears she didn't stop the scammer from applying for the Chetwood loans on her behalf, so I don't think it could reasonably be said that she didn't consent to it. Therefore, I'm not persuaded Section 83 of the CCA 1974 would have the effect of absolving Ms R of any liability for the debt in such circumstances, as the scammer can effectively be treated as having acted as her agent.

Ms R says that she didn't receive any correspondence regarding the loan application or any cooling off period before receiving the funds, and Chetwood has said that it will not seek to enforce the credit agreement as a result (such as charging interest), which I think is a fair offer. However, I'm aware that Ms R was aware of all other loans taken out in her name (including how much they were for) when she spoke to her banks about them. And having taken everything into account, I'm satisfied she was likely aware of the loans taken out with Chetwood as well. Indeed, she said she was surprised at how quickly the funds were paid into her account, so she ought reasonably to have known that this money from Chetwood was the proceeds of the loans, which she would need to pay back.

However, Ms R didn't take any action to return the funds to Chetwood and instead transferred the loan proceeds to another account, where they were subsequently lost to the scammer. I'm also satisfied Chetwood undertook reasonable credit checks to ensure the loan was affordable for Ms R at the time it was applied for. As a result, I don't think it would be fair and reasonable to ask Chetwood to write off the debit in these circumstances, and I'm satisfied it hasn't acted unfairly by asking her to repay the capital.

I appreciate this will likely come as a disappointment to Ms R, and I'm sorry to hear she has been the victim of a cruel scam. However, I'm not persuaded that Chetwood has acted unfairly in these circumstances.

### **My final decision**

For the reasons given above, I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms R to accept or reject my decision before 4 December 2023.

Jack Ferris  
**Ombudsman**