

The complaint

Mr K complains Assetz SME Capital Limited have invested funds in his peer-to-peer (P2P) lending account into companies that are bankrupt. He has requested that it refunds the money that has been invested into loans with these companies.

What happened

Mr K holds a P2P lending account on Assetz's platform. The Access Account product he's invested in uses the funds he places into the account to allocate to loan parts in return for interest – and aims to pay him a target rate of interest.

In December 2022, Mr K noticed more than £3,000 of his recent investments made between October 2022 and November 2022 had been invested into loans with companies who have ceased trading. He raised concerns about how this had happened and didn't find it acceptable that his funds had gone into loans that were already in default.

Assetz treated Mr K's concerns as a complaint and provided a response. It didn't uphold his complaint. In summary it said:

- The Access Account Mr K is invested in benefits from a Provision Fund. Any loans that are subject to a credit event are available for allocation as this is part of the normal operation of the Access Accounts. This is facilitated by the way the Provision Fund is deployed to those accounts to allow for interest payments to be met by covering any missing interest due from loans which are subject to payment problems.
- It provided information about this on the Access Account pages on its website and the information was available to Mr K before he made his investment decision.

Mr K didn't accept Assetz's response and referred his complaint to this service for an independent review.

One of our investigators considered Mr K's complaint but didn't uphold it. In summary, they were satisfied that Assetz had treated Mr K fairly in the way it had operated his account and allocated loan parts. They noted the operation of the Access Accounts did allow for the allocation of loans with payment problems and the Provision Fund was provided to support the payment of returns to investors. They didn't find that Mr K had suffered a loss as a result of the allocation of the loans into his account.

Mr K didn't accept the investigator's findings. In summary, he said:

- He accepts the standard operating procedure of the Access Accounts when an investor was able to withdraw money – but he didn't agree to Assetz closing the secondary market in December 2022 and leaving his funds frozen.
- He requested that he be allowed to withdraw his funds from his Access Account because Assetz has changed the goal post by freezing the account.
- The provision fund only covers the interest. Assetz is running a solvent run off of the loan book, so his loans with credit events are at higher risk, so he is asking for a withdrawal of those particular funds and not his entire capital.

The investigator responded but didn't change their findings on the outcome. They also said the operation of a secondary market to sell loan parts to allow for withdrawals wasn't guaranteed.

As Mr K didn't accept the investigator's findings, the complaint has been passed to me to decide.

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.

Mr K's investments in his P2P lending account involved Assetz allocating his funds into loan parts across a spread of loans that are held on the platform. Mr K doesn't have any discretion on which loans his funds go into, but his returns are based on achieving a target rate of interest that is earned from the underlying loans he holds in his account.

Mr K has highlighted loans that he has invested in through his Access Account in late 2022. He has referred to his funds being invested with bankrupt companies or some who have ceased trading. Essentially, what this means is that he has had his funds invested in loans with borrower companies that are unable to meet the loan repayments as they fall due – and the payment problems existed before he had his funds allocated to the loans.

I understand why Mr K is concerned about his funds going into loans that were non-performing at the time of investment. Assetz doesn't dispute that Mr K has been placed in loans that were in default as a result of a credit event – but it has explained this is part of the normal operation of Access Accounts. It says this product has unique features that are different to the other types of lending account products - which wouldn't be allocated loans with a credit event.

In reaching my decision, I've considered this in the context of the operation of the Access Account Mr K held. I've reviewed the information provided by Assetz on its website about the operation of the Access Accounts. In particular I've noted the information relating to the Provision Fund and the "ring-fencing" relating to the Access Accounts. This explains that all loans remain tradeable within the Access Accounts – including those with credit events (like the ones Mr K has highlighted in his complaint). It says this does mean that lenders will own parts of loans which may be in difficulty or even in default. So, I think this explains why Mr K's funds went into loans that were already suffering payment issues. But importantly Assetz sets out that the Provision Fund has ring-fenced funds for Access Account holders to cover 100% of the expected loss. This is to ensure lenders in these accounts are treated fairly and avoid situations where they might join a loan which may already be facing a loss.

Assetz has also confirmed Mr K hasn't suffered a loss of the non-performing loans he was allocated. But if the recovery action completed and results in a crystallised loss, then the ringfenced funds would be used to mitigate the loss.

I note Mr K has raised points about the secondary market now being closed following Assetz's decision to close its retail platform. He has requested that his funds in non-performing loans are returned to him.

The Access Accounts are designed to allow for investors to be able to withdraw funds. But importantly, I'm satisfied Assetz made it clear on its website that this couldn't be guaranteed - specifically in the event of a change in market conditions. In December 2022, due to market conditions Assetz made the decision to close its retail platform, and as a result the

secondary market was closed. This meant that Mr K is unable to request or make withdrawals. I appreciate why he is unhappy about this – but as he wasn't guaranteed to be able to remove his funds, and in the prevailing circumstances, I don't think Assetz has treated him unfairly by not agreeing to him withdrawing from his non-performing loans.

To be clear, as part of this complaint I've haven't considered anything to do with the decision Assetz made to close its retail platform – or the associated impact of this. If Mr K has concerns about this, he would need to raise this separately in the first instance.

In conclusion, I haven't found Assetz has treated Mr K unfairly, or that it has operated his Access Account outside of the explained parameters. For this reason, I don't think it needs to do anything further. I appreciate Mr K will be disappointed with my findings, but I haven't found grounds to say Assetz needs to refund the monies he has had invested in non-performing loans.

My final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 17 December 2024.

Daniel Little
Ombudsman