

The complaint

Ms S complains that Share Credit Limited (“SCL”) pressured her into self-certifying as a professional client and didn’t check whether she had the requisite experience, knowledge or expertise to understand the risks involved in doing so.

What happened

Ms S held a peer-to-peer (“P2P”) lending account with SCL. In March 2023, Ms S signed a document provided by SCL to self-certify herself as a professional client.

Ms S complained to SCL in August 2024 as she felt SCL had pressured her into the self-certification, having been messaged privately by someone at SCL on 3 March 2023. Within the message, the individual at SCL said:

“It is best for you to be certified as a professional investor, so that you can use the platform in the same way as now. If you are a retail client, no matter which of the four types you are, you can no longer enjoy bonuses, and secondary market trading is also more restricted.”

Ms S also said SCL failed to check whether Ms S had the requisite experience, knowledge or expertise to be a self-certified professional client.

SCL considered Ms S’s complaint but didn’t uphold it. In summary, it said that, based on the Financial Conduct Authority’s (“FCA”), all investors must do self- categorisations, and retail investors are restricted in many perspectives including what the individual mentioned in the messages to Ms S. It said only professional investors could access the original functions of the platform as before. It said that all investors’ categorisation statements are standard documents from the FCA which clearly list the requirements of each category, and the investors must sign the statements to confirm their self-categorisation declaration, which it said Ms S did. It noted that Ms S could have logged on her account to update her investor category anytime, if she felt uncomfortable about her self-certification as professional investor. So it didn’t find any evidence that it had pressurised Ms S into her self-certification.

Ms S remained unhappy and so she referred her complaint to this service for an independent review. She added to her complaint that SCL had failed to provide all the information she had requested by way of a subject access request.

One of our investigators considered the complaint but didn’t uphold it. In summary, they said that they hadn’t found evidence of any pressure being applied to Ms S but acknowledged that SCL had clearly been communicating with her through unofficial channels, which they considered to be poor practice. They felt there was no evidence to support that Ms S would’ve satisfied all of the requirements to make it appropriate for her to self-certify as a professional client. However, they felt there was no evidence available to show that Ms S had been negatively impacted as a result of the self-certification. They acknowledged that SCL had confirmed that Ms S was able to sell her loans and withdraw her money as she intended. They also noted that SCL had explained that it had provided all the information it was obliged to provide by way of the subject access request and the investigator provided

the details for the Information Commissioner's Office to contact it if she remained unhappy with the information provided.

Ms S didn't accept the investigator's findings. In summary, she said she had incurred legal costs trying to rectify SCL's misclassification and that SCL had repeatedly failed to respond to her emails which caused her unnecessary stress and frustration. She also added that SCL held her funds in its own business account instead of in a designated client money account, which she says is a breach of the FCA rules.

SCL also provided comments to the investigator's view. In summary, it said Ms S has a degree in business management and her dissertation was about private equity investment and that if she were a retail investor, she wouldn't have been able to use the secondary market to sell her loans to other investors. It noted she had sold 34 loans since self-certifying as a professional client and that it had allowed Ms S to withdraw her money from the platform on 10 February 2025 and she has since closed her account.

As Ms S remained unhappy, 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.

The crux of Ms S's complaint is that she didn't meet the criteria for a professional client and despite this, SCL pressured her into self-certifying as so.

The relevant rules around elective professional clients can be found in the Conduct of Business Sourcebook ("COBS") within the FCA Handbook. COBS 3.5.3R explains:

"A firm may treat a client other than a local public authority or municipality as an elective professional client if it complies with (1) and (3) and, where applicable, (2):

(1) the firm undertakes an adequate assessment of the expertise, experience and knowledge of the client that gives reasonable assurance, in light of the nature of the transactions or services envisaged, that the client is capable of making his own investment decisions and understanding the risks involved (the "qualitative test");

(2) in relation to MiFID or equivalent third country business in the course of that assessment, at least two of the following criteria are satisfied:

(a) the client has carried out transactions, in significant size, on the relevant market at an average frequency of 10 per quarter over the previous four quarters;

(b) the size of the client's financial instrument portfolio, defined as including cash deposits and financial instruments, exceeds EUR 500,000;

(c) the client works or has worked in the financial sector for at least one year in a professional position, which requires knowledge of the transactions or services envisaged;

(the "quantitative test"); and

(3) the following procedure is followed:

(a) the client must state in writing to the firm that it wishes to be treated as a professional client either generally or in respect of a particular service or transaction or type of transaction or product;

(b) the firm must give the client a clear written warning of the protections and investor compensation rights the client may lose; and

(c) the client must state in writing, in a separate document from the contract, that it is aware of the consequences of losing such protections.”

COBS 3.5.6R also explains:

“Before deciding to accept a request for re-categorisation as an elective professional client a firm must take all reasonable steps to ensure that the client requesting to be treated as an elective professional client satisfies the qualitative test and, where applicable, the relevant quantitative test.”

I've seen a copy of the form the declaration form Ms S completed in March 2023 to certify herself as a professional client. In completing the form, Ms S was required to confirm that she met the requirements under the qualitative and quantitative tests set out in COBS above. However, she has since complained that she didn't meet these requirements and SCL didn't do any checks to ensure that she did.

It's not clear from the information provided whether Ms S met all of the requirements under COBS, and I've seen no evidence to support that SCL performed any checks to ensure she met these, as expected under COBS 3.5.6R, beyond asking her to fill out the form. If I was to make a finding that Ms S didn't meet the requirements, then would direct SCL to re-work Ms S's account as if she were a retail client and not a professional client. However, I don't think I need to make a finding on this point as I'm not persuaded Ms S has lost out financially due to SCL allowing her to self-certify as a professional client. I say this, as I've not seen any evidence to show Ms S's investments were exposed to any more risk, as she was already invested in loans on the platform before re-classifying. Nor have I seen any evidence to support that she was paying any further fees or charges for being investing as a professional client. Rather, it would appear that Ms S has benefitted from being a professional client as she has been able to sell some of her loans on the secondary market, which she would otherwise have not been able to do. I'm also aware that Ms S has since withdrawn all her funds from the platform in February 2025 and no longer holds her account with SCL.

I appreciate Ms S feels SCL has breached the FCA regulations, but it's not my role to punish a business for such a breach. Our service isn't the regulator, that's the FCA, and my role instead is to consider the impact any such breach has had on a consumer. In Ms S's case, I'm not persuaded that she has suffered any financial loss as a result of her being able to self-certify as a professional client.

I understand Ms S has provided evidence of the financial and emotional impact caused by the actions of SCL, however, these appear to be as a result of SCL withholding funds. These issues have been dealt with separately from this complaint and so I'm unable to consider this evidence when looking at whether compensation is warranted.

I've also considered whether Ms S had been pressured into self-certifying as a professional client. Whilst I acknowledge that a member of SCL's staff did contact Ms S by unofficial SCL means, I don't think this amounts to undue pressure and I'm also aware that Ms S could have changed her classification if she was later unhappy with this.

I note that Ms S has raised concerns regarding SCL not holding her funds in a designated

client money account. However, beyond the issues relating to the withholding of funds, which I've explained has already be dealt with separate from this complaint, I'm not persuaded this has caused Ms S any financial detriment.

Finally, I acknowledge Ms S's comments regarding the level of information provided by SCL in response to her subject access request. SCL has explained that it has provided all the information it believes it is obliged to provide, and Ms S hasn't specified a specific need for a particular piece of missing evidence and so any dispute regarding this would be most suitably referred to the Information Commissioner's Office.

My final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms S to accept or reject my decision before 15 July 2025.

Ben Waites
Ombudsman