

Complaint

Mr W says Elevate Credit International Limited (trading as “Sunny”) irresponsibly provided him with a number of high-cost short-term credit instalment loans.

Background

This complaint is about twelve high-cost short-term credit instalment loans that Sunny provided to Mr W between April 2015 and September 2017.

Our adjudicator upheld Mr W’s complaint and thought that he shouldn’t have been provided with loans 2 to 12. Sunny didn’t agree. So the complaint was passed to me.

My findings

I’ve considered all the available evidence and arguments to decide what’s fair and reasonable in the circumstances of this complaint. We’ve set out our general approach to complaints about short-term lending - including all the key relevant rules, guidance and good industry practice - on our website.

Sunny needed to take reasonable steps to ensure that it didn’t lend irresponsibly. In practice this means that it should have carried out proportionate checks to make sure Mr W could repay the loans in a sustainable manner. These checks could take into account a number of different things, such as how much was being lent, the repayment amounts and the consumer’s income and expenditure. With this in mind, in the early stages of a lending relationship, I think less thorough checks might be reasonable and proportionate.

But certain factors might point to the fact that Sunny should fairly and reasonably have done more to establish that any lending was sustainable for the consumer. These factors include:

- the *lower* a customer’s income (reflecting that it could be more difficult to make any loan repayments to a given loan amount from a lower level of income);
- the *higher* the amount due to be repaid (reflecting that it could be more difficult to meet a higher repayment from a particular level of income);
- the *greater* the number and frequency of loans, and the longer the period of time during which a customer has been given loans (reflecting the risk that repeated refinancing may signal that the borrowing had become, or was becoming, unsustainable).

There may even come a point where the lending history and pattern of lending itself clearly demonstrates that the lending was unsustainable.

I’ve carefully considered all of the arguments, evidence and information provided. Having looked at the overall pattern of Sunny’s lending history with Mr W, I think that Sunny should reasonably have seen that Mr W was unlikely to have been able to make his payments in a sustainable manner by the time it provided Mr W with loan .

I say this because I think that proportionate checks would more likely than not have shown that Mr W was unlikely to be able to sustainably make his payments because he was in financial difficulty as a result of gambling significant sums of money.

Sunny continued lending to Mr W despite the fact that it ought to have been aware of this and in circumstances where it also ought reasonably to have realised that any further loans were more likely than not unsustainable for him.

Mr W had to pay interest and charges on loans that Sunny shouldn't have provided him with. So I think that he lost out and Sunny should put things right.

Putting things right – what Sunny needs to do

- refund all interest and charges Mr W paid on loans 2 to 5 and 7 to 9;
- pay interest of 8% simple a year on any refunded interest and charges from the date they were paid to the date of settlement†;
- remove all interest and charges added to loan 6 and loans 10 to 12 from the outset. The payments Mr G made, either to Sunny or any third party debt purchaser, should then be deducted from the new starting balances. If after all adjustments have been made any outstanding balances remain, Sunny can only deduct this from what it now needs to pay Mr G if it owns the debt. If it doesn't it can't make any deduction;
- remove any adverse information recorded about loans 2 to 5 and 7 to 9 from Mr W's credit file.

† HM Revenue & Customs requires Sunny to take off tax from this interest. Sunny must give Mr W a certificate showing how much tax it's taken off if he asks for one.

My final decision

For the reasons given above, I'm partially upholding Mr W's complaint. Elevate Credit International Limited should put things right in the way I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 10 June 2020.

Jeshen Narayanan
Ombudsman