DRN-3217106

The complaint

Mrs S complains that JD Williams & Company Limited ("JDW") unfairly increased the interest and credit limit on her account to an unaffordable level.

What happened

Mrs S holds a credit account with JDW and says she was quoted an interest rate of 26% when she first opened it. However, she complained when she discovered that her rate of interest would be increasing to 49.9%, which she considered to be unaffordable.

Mrs S was also unhappy with the credit limit increases applied to her account, which she believes to have been irresponsible of JDW and unaffordable. She does not think that JDW had fully considered her financial position and ability to make repayments, and that their actions have now worsened her financial situation.

Our investigator upheld the complaint. He didn't think JDW had carried out reasonable checks into Mrs S's financial situation before increasing her credit limit. He thought that if they had have carried out appropriate checks, they would have likely determined that further increases to her credit limit would not have been affordable. JDW 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 to uphold it for the reasons set out below.

Interest rate

The terms and conditions of Mrs S's credit agreement state that JDW:

> *"may vary the interest rate (or other parts of the agreement) giving you at least 21 days written notice…We reserve the right to vary any part of this agreement (including the APR, interest rates, charges and regular minimum payment) at any time by giving you at least 21 days' notice in writing".*

So, JDW are entitled to increase the rate of interest on their accounts, so long as they give the contractual notice as set out above. JDW have shown system information to demonstrate that they sent a letter to Mrs S on 5 September 2018, which would have advised her of the change in interest coming into effect on 2 October 2018. The business hasn't been able to show the specific letter that was sent to Mrs S, but they have provided an example of the letter (coded RB13) that would have been sent to her. So, on balance, I'm satisfied JDW had likely given the relevant notice period, and that they were entitled to increase the interest on Mrs S's account.

Credit limit increase

Mrs S is also unhappy that her credit limit has increased to £3,000. She says that during the times her limit was increased, she was not in a good position financially or in terms of her mental and physical health and submits that JDW ought to have assessed whether the increases were affordable.

JDW submit that they made proportionate checks in line with the small increases in credit they were making, and that there was no indication Mrs S was in any financial difficulty as she was making at least the minimum repayments towards her account. They say they informed Mrs S of the proposed credit limit increases and her ability to opt out, but that they had not been contacted.

I appreciate that the credit limit increases applied each time by JDW were relatively small in isolation. But they were frequent, and over two years have led to an overall larger increase in credit available to Mrs S.

CONC 5.2A.5 states that a firm must not significantly increase the amount of credit available under a regulated credit agreement unless they have undertaken a creditworthiness assessment and had proper regard to the outcome of that assessment in respect of affordability risk. And with respect to incremental increases (as is the case here) CONC 5.2A.6 states:

> *"If an increase in the amount of credit or in the credit limit is not itself significant but would result in there having been, since the last creditworthiness assessment, a cumulative increase that is significant, then a further creditworthiness assessment is required. This may be the case, for example, where a number of consecutive increases have been made over a period, none of which is considered significant when considered in isolation, but the aggregate sum of which is significant".*

Between 5 September 2017 and 3 September 2019. Mrs S's credit limit had increased from £400 to £3,000 – a 650% increase over the space of 24 months. So, while each incremental increase may have been small, I'm satisfied that the cumulative increase is significant in these circumstances, such that JDW ought reasonably to have carried out a further credit worthiness assessment.

CONC 5.2A7 further states that a firm must base its creditworthiness assessment on sufficient information of which it is aware at the time the creditworthiness assessment is carried out and *"obtained, where appropriate, from the customer and, where necessary, from a credit reference agency and the information must enable the firm to carry out a reasonable creditworthiness assessment".*

I note that some of the credit increases occurred before November 2018 – before CONC 5.2A came into force – but I'm satisfied that the previous regulations in force at the time (CONC 5.2 and 6.2) still required proportionate checks to be carried out in such circumstances.

JDW have provided evidence to show the internal checks they carried out, and I appreciate they also consulted the credit referencing agencies. But they have not been able to demonstrate what other external checks were completed. And given the significant increase in Mrs S's credit limit over time, it would be reasonable to have expected JDW to make further assessments of her financial situation to determine whether she could afford any further increases, such as an income and expenditure assessment. I don't consider this would have been disproportionate in the circumstances, when considering the cumulative increase of 650% in her credit limit.

Mrs S has provided this service with copies of her statements to show her income and expenditure. So, had JDW carried out further checks, they would have determined that she was left with just £200 of disposable income each month after other paying bills and other financial commitments. And at each point her credit limit was increased, there had been no material changes to financial situation, where she had very little in her account or savings. Her statements also show that she often went into her overdraft as well.

I appreciate Mrs S may not have missed her repayments with JDW. But this does not in itself give an indication that an increase in Mrs S's credit limit would not have had a significant adverse impact on her financial situation, which she has said it since has. As already set out above, JDW has not been able to demonstrate that they carried out enough reasonable and proportionate checks to determine affordability in this case. If they had done so, I'm satisfied it would have likely been apparent that any further increases in lending would not have been affordable for Mrs S.

My final decision

For the reasons given above, I uphold this complaint and direct JD Williams & Company Limited to:

- Refund all interest and charges incurred as a result of any credit limit increases from 5 September 2017 onwards.
- Pay 8% simple interest per year on that amount from the date she paid it to the date of settlement;
- Remove any negative information recorded on Mrs S's credit file (if applicable) from September 2017 onwards.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs S to accept or reject my decision before 18 March 2022.

Jack Ferris
Ombudsman