DRN-4114457

The complaint

Mr S, through a representative complains that Evergreen Finance London Limited trading as MoneyBoat.co.uk ("MoneyBoat") didn't carry out proportionate affordability checks before it granted his loans.

What happened

Mr S was advanced 11 loans and I've included some of the information we've received about them in the table below.

loan number	loan amount	agreement date	repayment date	number of instalments	highest repayment per loan
1	£200.00	04/05/2020	05/06/2020	4	£57.57*
2	£400.00	06/06/2020	08/06/2020	4	£150.18
3	£400.00	20/06/2020	23/09/2020	4	£139.56
4	£200.00	29/09/2020	23/10/2020	3	£76.24*
5	£400.00	23/02/2021	30/04/2021	4	£140.78
6	£200.00	12/06/2021	20/07/2021	4	£60.03*
7	£200.00	28/08/2021	21/09/2021	3	£74.77*
8	£200.00	24/09/2021	26/10/2021	3	£99.57
9	£350.00	04/03/2022	20/05/2022	3	£158.27
10	£200.00	01/06/2022	20/06/2022	2	£124.07
11	£300.00	23/06/2022	19/07/2022	2	£193.30

*weekly payments

MoneyBoat also provided details of a further four credit agreements that were produced but after further investigation it confirmed these loans weren't funded.

Following Mr S's complaint MoneyBoat wrote to his representative to explain that it wasn't going to uphold the complaint. However, it did agree, as a gesture of goodwill to refund the interest that Mr S paid on his final six loans – which came to £321.75. Mr S's representative didn't accept the outcome and referred the complaint to the Financial Ombudsman.

An adjudicator reviewed the complaint. She thought MoneyBoat had made a reasonable decision to provide loans 1 - 4 so she didn't uphold Mr S's complaint about them.

The adjudicator said when loan 5 was approved, further checks ought to have been carried out and had they been done, MoneyBoat would've seen that Mr S owed other payday lenders over £750 at the time, and so the loan wasn't sustainable. Finally, she thought the lending was now harmful for Mr S by the time loans 6 to 11 were granted and so she upheld Mr S's complaint about these loans as well.

MoneyBoat disagreed with the outcome the adjudicator had reached about loans 5 - 11. I've summarised its comments below;

- MoneyBoat can't find the short term / high-cost credit loans the adjudicator referred to when loan 5 was granted.
- Other loans around the time of loan 5 have been seen but these appear to be longer term liabilities.
- Nothing from the credit check results indicate these loans were unaffordable.

Mr S's representative confirmed it had received the adjudicator's view, but no further comments were provided.

The case was then passed to an ombudsman to make a decision about the complaint.

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.

We've set out our general approach to complaints about this type of lending - including all the relevant rules, guidance and good industry practice - on our website.

MoneyBoat had to assess the lending to check if Mr S could afford to pay back the amounts he'd borrowed without undue difficulty. It needed to do this in a way which was proportionate to the circumstances. MoneyBoat's checks could've taken into account a number of different things, such as how much was being lent, the size of the repayments, and Mr S's income and expenditure.

With this in mind, I think in the early stages of a lending relationship, less thorough checks might have been proportionate. But certain factors might suggest MoneyBoat should have done more to establish that any lending was sustainable for Mr S. These factors include:

- Mr S having a low 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 amounts to be repaid being especially high (reflecting that it could be more difficult to meet a higher repayment from a particular level of income);
- Mr S having a large number of loans and/or having these loans over a long period of time (reflecting the risk that repeated refinancing may signal that the borrowing had become, or was becoming, unsustainable);
- Mr S coming back for loans shortly after previous borrowing had been repaid (also suggestive of the borrowing becoming unsustainable).

There may even come a point where the lending history and pattern of lending itself clearly demonstrates that the lending was unsustainable for Mr S. The adjudicator thought this applied in Mr S's complaint from loan 6.

MoneyBoat was required to establish whether Mr S could *sustainably* repay the loans – not just whether he technically had enough money to make his repayments. Having enough money to make the repayments could of course be an indicator that Mr S was able to repay his loans sustainably. But it doesn't automatically follow that this is the case.

Industry regulations say that payments are sustainable if they are made without undue difficulties and in particular, made on time, while meeting other reasonable commitments and without having to borrow to make them. If a lender realises, or ought reasonably to have realised, that a borrower won't be able to make their repayments without borrowing further, then it follows that it should conclude those repayments are unsustainable.

I've considered all the arguments, evidence and information provided in this context, and thought about what this means for Mr S's complaint.

Neither MoneyBoat nor Mr S (or his representative) appear to disagree with the outcome the adjudicator reached about loans 1 - 4. I therefore no longer think the loans are in dispute. So, I say no more about them. Instead, this decision will focus on whether loans 5 to 11 ought to have been granted.

Loans 5

For this loan, Mr S declared an income of £2,200 per month and MoneyBoat says this figure was cross referenced through a third-party report. So MoneyBoat believed this income figure to be accurate.

Mr S also declared monthly outgoings of £459. As part of the application, MoneyBoat used information from its credit search to adjust the declared expenditure Mr S provided. As a result, of this check, Mr S's monthly expenditure was increased by £391 per month.

After carrying out these checks, Mr S's disposable monthly income was £1,350. Even when MoneyBoat made adjustments to the disposable income that Mr S had declared, he still had sufficient income to be able to afford the repayments he had to make.

A credit search was also conducted by MoneyBoat, and a copy of the results have been provided. This showed that Mr S had just over £16,000 of debt, spread across 12 active credit accounts. However, Mr S had opened 9 accounts within the last six months – more than on average of one per month and only one of these 9 is likely to be a previous MoneyBoat loan.

However, while MoneyBoat believed the loan to be affordable, I do think that the checks needed to go further considering the number of loans and time in debt which ought to have led MoneyBoat question whether it knew enough about Mr S's finances.

MoneyBoat could've carried out these additional checks, in several ways, it could've asked for evidence of his outgoings such as copy bills. It could've asked to see copies of Mr S's bank statements or any other documentation it felt it needed to obtain to satisfy itself that it had carried out more robust checks.

Mr S's representative has provided his bank statements from around the time this loan was advanced. Having looked at them, Mr S had at least three payday loans outstanding, and a revolving credit facility provided by a high-cost lender. The total cost, per month to Mr S to repay these accounts was £850. And in the week, before the loan was provided, Mr S was advanced a further £1,500 from another two other high-cost credit providers – which would've increased his costs to such providers even more. And so, with at least five outstanding payday loans and a revolving credit facility – in my view, any further borrowing was unsustainable.

I uphold Mr S's complaint about this loan.

Loans 6 - 11

For these loans, MoneyBoat has shown that it carried out the same sort of checks. It asked for details of Mr S's income, expenditure and it also carried out a credit search. For some of the loans it seems MoneyBoat obtained copies of Mr S's wage slip. And these checks do suggest, that Mr S had sufficient funds to be able to afford the loan repayments.

As before, it would've been reasonable for MoneyBoat to have at the very least, started to have verified the information it was being given. I've not seen anything to suggest it carried out further checks in this case. However, I don't think I need to try and establish, whether a proportionate check would've led MoneyBoat to conclude these loans were unaffordable for Mr S.

So, in addition to looking at the checks that MoneyBoat did, I've also looked at the overall pattern of MoneyBoat' lending history with Mr S, with a view to seeing if there was a point at which MoneyBoat should reasonably have seen that further lending was unsustainable, or otherwise harmful. And so MoneyBoat should have realised that it shouldn't have provided any further loans.

Given the circumstances of Mr S's case, I think that this point was reached by loan 6. I say this because:

- At this point MoneyBoat ought to have realised Mr S was not managing to repay his loans sustainably. Mr S had taken out six loans in 13 months. So MoneyBoat ought to have realised it was more likely than not Mr S was having to borrow further to cover a long-term short fall in his living costs.
- At times, Mr S was provided with a loan shortly after one was repaid, for example 3 days after loan 10 was repaid he returned for loan 11. To me this could be a sign that Mr S may have been using these loans to fill a long-term gap in his income rather than as a short-term need.
- Over the course of the lending relationship, Mr S's weekly commitments usually fluctuated and indeed there were times when the information wasn't plausible, such as when he declared he had zero costs for food each month. However, the fact that Mr S appears to have had a need for further loans, ought to have led it to realise these loans weren't sustainable anymore.
- Mr S wasn't making any real inroads to the amount he owed MoneyBoat. Loan 11 was taken out 24 months after Mr S's first loan and was to be repaid over a shorter term – only two months and it was 50% larger compared to his first loan. It also had one of the largest monthly repayments. Mr S had paid large amounts of interest to, in effect, service a debt to MoneyBoat over an extended period.

I think that Mr S lost out when MoneyBoat provided loans 6 - 11 because:

- these loans had the effect of unfairly prolonging Mr S's indebtedness by allowing him to take expensive credit intended for short-term use over an extended period
- the number of loans and the length of time over which Mr S borrowed was likely to have had negative implications on Mr S's ability to access mainstream credit and so kept him in the market for these high-cost loans.

Overall, I'm upholding Mr S's complaint about loans 5 to 11 and I've outlined below what MoneyBoat needs to do in order to put things right.

Putting things right

In deciding what redress MoneyBoat should fairly pay in this case I've thought about what might have happened had if it had stopping lending from loan 5, as I'm satisfied it ought to have. Clearly there are a great many possible, and all hypothetical, answers to that question.

For example, having been declined this lending Mr S may have simply left matters there, not attempting to obtain the funds from elsewhere. If this wasn't a viable option, he may have looked to borrow the funds from a friend or relative – assuming that was even possible.

Or, he may have decided to approach a third-party lender with the same application, or indeed a different application (i.e. for more or less borrowing). But even if he had done that, the information that would have been available to such a lender and how he would (or ought to have) treated an application which may or may not have been the same is impossible to reconstruct now accurately. From what I've seen in this case, I certainly don't think I can fairly conclude there was a real and substantial chance that a new lender would have been able to lend to Mr S in a compliant way at this time.

Having thought about all these possibilities, I'm not persuaded it would be fair or reasonable to conclude that Mr S would more likely than not have taken up any one of these options. So, it wouldn't be fair to now reduce MoneyBoat's liability in this case for what I'm satisfied it has done wrong and should put right.

MoneyBoat shouldn't have provided Mr S with loans 5 - 11.

A. MoneyBoat should add together the total of the repayments made by Mr S towards interest, fees and charges on these loans, including payments made to a third party where applicable, but not including anything MoneyBoat has already refunded.
B. MoneyBoat should calculate 8% simple interest* on the individual payments made by Mr S which were considered as part of "A", calculated from the date Mr S originally made the payments, to the date the complaint is settled.
C. MoneyBoat should pay Mr S the total of "A" plus "B".
D. MoneyBoat should remove any adverse information recorded on Mr S's credit file in relation to loan 5. The overall pattern of Mr S's borrowing for loans 6 - 11 means any information recorded about them is adverse, so MoneyBoat should remove these loans entirely from Mr S's credit file.

*HM Revenue & Customs requires MoneyBoat to deduct tax from this interest. MoneyBoat should give Mr S a certificate showing how much tax it has deducted, if he asks for one.

My final decision

For the reasons I've explained above, I'm upholding Mr S's complaint in part.

Evergreen Finance London Limited trading as MoneyBoat.co.uk should put things right for Mr S as directed above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 22 August 2023.

Robert Walker
Ombudsman