DRN-4130245

The complaint

Mrs M, who is represented by a third party, says Studio Retail Limited ("Studio Retail") irresponsibly lent to her. She has requested that the interest and late payment charges she paid on the account be refunded.

What happened

This complaint is about a shopping account Studio Retail provided to Mrs M. The account was opened in November 2017 with a credit limit of £100. A credit limit increase to £200 was applied to the account in September 2018.

Our investigator partially upheld the complaint from the date of the credit limit increase. This was because of changes in Mrs M's financial circumstances in the lead up to that increase.

Studio Retail said it didn't agree as it said its own information suggested that Mrs M was managing her account reasonably well. The complaint has therefore been passed to me for a decision.

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 unaffordable and irresponsible lending - including the key relevant rules, guidance and good industry practice - on our website.

Studio Retail 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 Mrs M could afford to repay what she was being lent 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 we might think it needed to do more if, for example, a borrower's income was low or the amount lent was high. And the longer the lending relationship goes on, the greater the risk of it becoming unsustainable and the borrower experiencing financial difficulty. So we'd expect a lender like Studio Retail to be able to show that it didn't continue to lend to a customer irresponsibly.

Our investigator has set out why he thinks Studio Retail shouldn't have provided Mrs M with any further credit from September 2018 onwards, when Mrs M's credit limit was increased from £100 to £200. Nonetheless in preparing this decision I've looked at the overall pattern of Studio Retail's lending history with Mrs M, based on the evidence and information provided by both Studio Retail and Mrs M, with a view to seeing if there was a point at which Studio Retail should reasonably have seen that further lending was unsustainable, or otherwise harmful. If so, that would mean Studio Retail should have realised that it shouldn't have increased Mrs M's credit limit.

I've seen that Mrs M had some other borrowing in place at the time the account was opened. She was in a payment arrangement for one of her other credit accounts and had missed at least one credit payment in the previous five months. But I don't think it was necessarily unreasonable for Studio Retail to have approved the account. I say this taking into consideration that at that time Mrs M didn't have any ongoing defaults or other adverse issues such as a county court judgment recorded on her credit record. And I've kept in mind that this was a modest opening credit limit with a low level of repayment.

I've seen that Studio Retail granted Mrs M her first credit limit increase around ten months after opening the account. Although it was doubling the opening credit limit, I appreciate the new credit limit remained relatively modest. But going forward from the opening credit limit, given what it already knew about Mrs M's financial circumstances at opening, I would have expected Studio Retail to carry out proportionate checks that included looking at Mrs M's Studio Retail account management as well checking carefully how she was managing the credit she held elsewhere. Our Investigator noted that by September 2018 Mrs M had had seven delinquent credit accounts seven months previously and another account in arrears. Looking at the way she'd been managing her Studio Retail account, she had already incurred three late payment charges without apparent explanation. I note she had also gone over her limit twice in the two months before the credit limit increase, albeit only by a small amount.

Studio Retail has pointed out that the delinquent accounts were seven months old. I've noted the figure for delinquent accounts had shown as three in May 2018 – going up to seven in June 2018. This suggests that further delinquencies had happened more or less at the same time. I think this points to an issue about Mrs M's being in full control of her own financial situation. Studio Retail has also suggested that the increased credit limit represented only a modest increase to what would be sustainable repayments. But I think this has to be looked at in the context of a consumer who had taken on a large number of credit accounts, all of which needed to be managed sustainably with regular payments, with evidence apparent that she could be getting into difficulty.

I therefore agree with our investigator that taken together all these factors suggest a real possibility that Mrs M's financial situation may have been deteriorating. So I agree that Studio Retail ought to have been prompted to carry out more enquiries in order that it could make a proportionate assessment before granting Mrs M any further credit, as modest as the increase was. Had it done so it's likely it would have found that Mrs M was having difficulty with her Studio Retail account and her wider financial situation, to the extent that her total level of borrowing was at risk of becoming unsustainable.

To summarise, I consider that Studio Retail's actions in increasing Mrs M's credit limit from September 2018 had the effect of worsening her financial situation by likely making the account unaffordable and unsustainable going forward. So Studio Retail should put things right.

Putting things right – what Studio Retail needs to do

- Rework Mrs M’s account to ensure that from September 2018 onwards, interest is only charged on balances up to £100 (being the credit limit in place before that date), including any buy now pay later interest, to reflect the fact that no further credit limit increases should have been provided. All late payment and over limit fees should also be removed; and
- If an outstanding balance remains on the account once these adjustments have been made Studio Retail should contact Mrs M to arrange an affordable repayment plan. Once Mrs M has repaid the outstanding balance, it should remove any adverse information recorded on her credit file from September 2018 onwards.

OR

- If the effect of removing all interest, fees and charges results in there no longer being an outstanding balance, then any extra should be treated as overpayments and returned to Mrs M, along with 8% simple interest per year on the overpayments from the date they were made (if they were) until the date of settlement. Studio Retail should also remove any adverse information from Mrs M’s credit file from September 2018 onwards.†

†HM Revenue & Customs requires Studio Retail to take off tax from this interest. Studio Retail must give Mrs M a certificate showing how much tax it’s taken off if she asks for one.

My final decision

For the reasons set out, I’m partially upholding Mrs M’s complaint. Studio Retail 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 Mrs M to accept or reject my decision before 19 October 2023.
Michael Goldberg
Ombudsman