

The complaint

Miss S complains that Studio Retail Limited trading as Ace ('Studio Retail') irresponsibly gave her a revolving credit account that she couldn't afford. For simplicity I'll refer to the revolving credit account as 'the account' or 'the credit account' in this decision.

What happened

On 6 March 2017, Miss S's revolving credit account was opened by Studio Retail with an initial credit limit of £100. The credit limit was increased to £200 in June 2017 and to £300 in April 2018. The credit limit was decreased later in the account history.

On 15 August 2022, Miss S complained to Studio Retail to say that the account shouldn't have been opened because it wasn't affordable and that Studio Retail ought to have made a better effort to understand her financial circumstances before it provided her with credit. Studio Retail did not agree. Miss S brought her complaint to this service.

Our investigator thought the lending on the account was reasonable initially but thought that Studio Retail ought not to have increased the credit limits when they did. Studio Retail didn't agree. So, 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.

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. After reviewing all of the information provided in this complaint, I intend to partially uphold Miss S's complaint. I explain why below.

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

- the lower a consumer'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 frequency of borrowing, and the longer the period of time during which a customer has been indebted (reflecting the risk that prolonged indebtedness 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.

Our investigator set out in some detail why she thought Studio Retail shouldn't have provided Miss S with any additional credit in June 2017 and thereafter. Studio Retail didn't agree with what our investigator said. It said the credit limits it set were affordable for Miss S.

Miss S's complaint is that Studio Retail made credit available that was unaffordable. Studio Retail told us it obtained credit reference data about Miss S at the time of the account opening and prior to each credit limit increase and that it took into consideration how the account was being managed.

It's possible that Studio Retail failed to make adequate checks before providing Miss S with the initial credit. But even if that's true, I don't think better enquiries would have caused Studio Retail to think the initial credit limit was unaffordable. I say that because the initial credit limit was hugely modest and the maximum monthly payments for that credit would have been very modest. Studio Retail's searches showed them that Miss S had no accounts in arrears at the time of the application and there was no public information showing any adverse financial information. I have seen insufficient evidence that Miss S was in financial difficulty, such that the very modest initial credit made the initial lending unreasonable.

But in deciding whether to increase the credit to Miss S Studio Retail also had the knowledge of how Miss S was managing her account. So, for the credit increases, I've also looked at the overall pattern of Studio Retail's lending history with Miss S, with a view to seeing if there was a point at which Studio Retail should reasonably have seen that further lending was likely unsustainable, or otherwise harmful. If so, that would mean Studio Retail should have realised that it shouldn't have further increased Miss S's credit limits.

Having done so, I think there was such a point in June 2017. At that time, despite the most modest of credit limits, I think there was a pattern of lending that ought to have put Studio Retail on notice that putting up the credit limit any further was unsustainable as Miss S would not have been able to afford to repay what she was being lent in a sustainable manner, most likely. I explain why I say that.

Studio Retail's records show that in the four months the account had been open, Miss S had missed two payments and exceeded the credit limit twice. Given that Miss S was struggling to manage her account with such a very modest limit of £100, I don't think that it was appropriate for Studio Retail to increase the credit limit at this time. Therefore, I think Studio Retail ought to have known that Miss S was unlikely to be able to sustain a higher limit given how her account was managed. And so, I don't think this credit limit increase, in June 2017, or any subsequent increase should've been granted.

So, I am persuaded that Studio Retail should reasonably have seen that further lending was likely unsustainable, or otherwise harmful, and it shouldn't have further increased Miss S's credit limit in June 2017, the date of the first credit increase. It follows that I think that Miss S lost out because Studio Retail provided her with further credit from June 2017 onwards.

In my view, Studio Retail's actions unfairly prolonged Miss S's indebtedness by allowing her to use credit she couldn't afford over an extended period of time and the interest being added would only have the effect of putting her into further debt. It follows that Studio Retail should put things right.

Putting things right

- Rework Miss S's account to ensure that from June 2017 onwards interest is only charged on balances up to the total credit limit of £100, including any buy now pay later interest, (being the credit limit in place before that date) 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 Miss S to arrange an affordable repayment plan for the account. Once Miss S has repaid the outstanding balance, it should remove any adverse information recorded on Miss S's credit file from June 2017 onwards for the account.

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 Miss S, 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 Miss S's credit file from June 2017 onwards.†

†HM Revenue & Customs requires Studio Retail to take off tax from this interest. Studio Retail must give Miss S 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 Miss S's complaint. Studio Retail should put things right in the way set out above. Under the rules of the Financial Ombudsman Service,

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss S to accept or reject my decision before 3 November 2023.

Douglas Sayers
Ombudsman