DRN-5605598

The complaint

Miss J complains that AMERICAN EXPRESS SERVICES EUROPE LIMITED ("AMEX") irresponsibly provided her with two credit cards and a credit limit increase on one of the cards.

Miss J is supported in bringing her complaint by a representative but for ease I'll refer to Miss J throughout.

What happened

AMEX provided Miss J with the first credit card (card one) in March 2021 with a credit limit of £10,000 with an APR of 56.6%. I understand the limit on this card wasn't increased and that the account was closed at Miss J's request in January 2022.

AMEX provided the second credit card (card two) in August 2021 with a credit limit of £13,000 with an APR of 22.2%. The limit on the second credit card was increased once in December 2022 to £21,900 and then decreased in June 2023 to £12,600. I understand this second account remains open.

Miss J complained to AMEX in February 2024. In summary, she said the lending was irresponsible and unaffordable. Miss J said she's been unable to determine AMEX took reasonable steps to assess her ability to meet the repayments in a suitable manner without incurring financial difficulty or experiencing significant adverse consequences. She said there were clear indications of financial difficulty because she exceeded the agreed credit limit and took out various credit agreements during her borrowing with AMEX.

In its final response letter, AMEX didn't uphold Miss J's complaint because it didn't agree the lending was irresponsible. In summary, it said AMEX is required to have procedures in place which are in line with its obligations as a responsible lender. It said all internal reviews and correct procedures were followed appropriately.

To support its position, AMEX provided our service with credit application data, and Miss J's credit file information from the time of the lending decisions. It also provided credit card statements.

Our Investigator considered both what Miss J and AMEX had said. In summary, they said for the initial lending on card one and on card two, although the checks weren't proportionate, AMEX wasn't wrong to lend to Miss J. Therefore, our Investigator felt these lending decisions were fair. They also said they hadn't assessed whether the lending was fair for the credit limit increase on card two, given Miss J's balance hadn't exceeded the previous limit at any point.

Following this, there was some back and forth between the Investigator and Miss J on whether the credit was affordable and the payments sustainable. In summary, Miss J maintained her outgoings were high at the time of lending and said it would take her tens of years to repay the debt. She said that to repay within a reasonable amount of time, she'd have to pay around £1,150 towards the credit card balances using what she said was a standard calculation of 5% of the balance per month.

The Investigator explained, in summary, that generally we'd measure against how long a typical loan would take to repay to decide what a reasonable time was for Miss J to repay her credit cards. And that the bank statements we've seen from Miss J don't reveal any potential financial issues. Miss J didn't agree and requested for an Ombudsman to consider her complaint and issue a final decision.

Because an agreement couldn't be reached, the complaint has been passed to me to decide on the matter.

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 explained how we handle complaints about unaffordable and irresponsible lending on our website. And I've used this approach to help me decide Miss J's complaint.

Having carefully considered everything provided, I'm not upholding Miss J's complaint – and I'll explain why.

AMEX needed to make sure it didn't lend irresponsibly. This means it needed to carry out proportionate checks to understand whether Miss J could afford to repay before providing the credit cards and any credit limit increases. Generally, it might be reasonable and proportionate for a lender's checks to be less thorough (in terms of how much information it gathers and what it does to verify it) in the early stages of a lending relationship.

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 to be able to show it didn't continue to lend to its customer irresponsibly.

When Miss J was provided with the credit cards, AMEX was required to understand whether Miss J could sustainably repay the full amount it was prepared to lend, within a reasonable period of time.

After reviewing Miss J's credit card statements for card two, I agree with our Investigator that it's unnecessary for our service to review whether AMEX was wrong to increase her credit limit. I say this because the balance on card two didn't exceed the previous limit at any point and the limit has now been reduced on the card to below the initial limit offered. And therefore even if AMEX were wrong to increase her credit limit, Miss J won't have lost out as a result. Therefore, this decision focuses on the initial lending for each of the credit cards.

For the initial lending of a £10,000 credit limit on card one in March 2021, AMEX's checks showed:

- Miss J was earning around £65,000 – Miss J has confirmed this to our service.
- She had no unsecured loans.
- She had an active credit card balance of around £385 across two credit cards. The total limits across the two cards was around £3,450.
- Miss J had access to what appears to be an overdraft of around £250 although no balance was showing on the credit bureau data at the time of application.
- She owed £110 on a utility account but there were no arrears.
- There was no adverse information showing.

For the initial lending of a £13,000 credit limit on card two in August 2021, AMEX's checks showed:

- Miss J was earning around £96,000 as confirmed by Miss J to our service.
- She had no unsecured loans.
- She had an active credit card balance of around £4,227 across three credit cards – one of which was AMEX card one. The total limit across all three credit cards was around £13,450.
- Miss J had access to what appears to be an overdraft of around £250 although no balance was showing on the credit bureau data at the time of application.
- She owed £184 on a utility account but there were no arrears.
- There was no adverse information showing.

AMEX told our service it doesn't carry out income and expenditure checks when lending but instead relies on external information held by the Credit Reference Agencies ("CRAs"). It uses this information to calculate "debt capacity" by reviewing an individual's income and internal/external obligations.

Given there was the possibility of Miss J owing over £10,000 when AMEX provided the first card and another £13,000 when providing the second, I think it would have been reasonable and proportionate of AMEX to find out more about Miss J's regular non-discretionary living expenses before lending to her to ensure the lending was affordable, as opposed to just relying on calculating her credit obligations. So, I'm not persuaded AMEX's checks were proportionate.

As AMEX didn't carry out proportionate checks, I've considered what proportionate checks would have shown. In other words, what AMEX is likely to have seen, had it obtained further information about Miss J's regular non-discretionary living expenses at each of the lending points.

To help our service understand what this looked like, Miss J has provided her bank statements. It's important to say that AMEX wasn't required specifically to request and check Miss J's bank statements as part of its lending checks. Instead, it needed to take reasonable steps to obtain information about Miss J's outgoings as outlined above. But in the absence of this, I've relied on Miss J's statements.

Miss J has provided bank statements for two different current accounts. One, she appears to use mainly for spending and the other, her salary is paid into. We've seen statements for the account she uses for spending, covering at least the three months leading up to the lending on both cards. There is a third current account showing on Miss J's credit file and this would explain where some transfers are being made from. Miss J hasn't provided statements for this third account. In any event, I'm satisfied we can see, based on the statements we do have, Miss J's main outgoings such as rent and bills and other essential expenditure.

I appreciate Miss J has said her outgoings were extensive and has requested evidence of our Investigator's calculations. But I want to explain that it isn't simply a case of adding up all of Miss J's expenditure at that time and deducting it from her income. This is because discretionary spending (non-essential spending i.e. other than bills, rent, food, etc) may make up part of someone's outgoings. And that's usually flexible in that it could be used towards bills or even credit card repayments if necessary. In addition, our Investigator has shared the numbers they relied upon in their view and Miss J hasn't put forward any evidence to the contrary.

Miss J also asks if we've considered rent and bill payments to her partner. I can see, for the months leading up to the lending decision on card one, it appears Miss J pays the rent and someone else, possibly her partner, contributes around £975 per month towards rent and likely bills. This contribution isn't showing for the months in the lead up to the lending on card two, so I've assumed Miss J was paying the full rent and bills on her own at that point.

After reviewing Miss J's bank statements and after considering all the above, I can see she had a sizeable disposable monthly income around the time of both lending decisions. Even when assuming she was solely paying rent and bills. So despite what Miss J has said about extensive outgoings and her financial situation, I haven't seen anything to suggest she was struggling financially at the time of lending.

I can see Miss J has questioned our Investigator's calculations on how long it'd likely take her to repay this debt sustainably and what this means her monthly credit card repayment is likely to look like, should she max out her spending on this card. I've come to the same conclusion as the Investigator on this point – I'll explain my thoughts on it.

AMEX provided Miss J with a credit card – which is a revolving credit facility rather than a lump sum loan. This means AMEX needed to understand whether Miss J could repay £10,000 within a reasonable period of time, rather than all in one go. The same applies for card two with a limit of £13,000. The guidance on a reasonable period of time is found in the Consumer Credit Sourcebook (CONC) 5.2A.28G. It states a lender should have regard to the typical time required for a repayment that would apply to a fixed-sum unsecured personal loan for an amount equal to the credit limit. For a £10,000 or £13,000 loan, I'd consider a typical term may usually be around five to six years.

Miss J's representatives have questioned this approach, but I believe they've provided calculations which are reflective of the *minimum* repayment being made each month. However, a *fixed* repayment above the minimum repayment would be required to clear the total debt owed within a reasonable period of time. This is because the minimum repayment is typically a percentage of the total debt owing. As the debt decreases over time, so will the minimum repayment, meaning the debt will take longer to pay off. Whereas a fixed repayment will continue to reduce the total amount owed month-on-month.

Overall, I agree with the Investigator's conclusions that Miss J could sustainably repay both credit cards within a reasonable period of time. It's worth noting that card one carries a higher APR than card two – that means it attracts higher interest. But even with that being the case, I'm satisfied Miss J's disposable income was such that it was sufficient to accommodate any potential higher monthly payments for card one. And even after assuming Miss J solely covers all of her rent and bills at the time of lending for card two, given her large pay increase, I find it likely she would have been able to sustainably repay the credit provided to her.

I've also thought about whether there was any information relating to Miss J's credit file that ought to have prompted AMEX to carry out further checks or simply not lend to Miss J.

For card one, Miss J had a low total borrowing figure and access to limited revolving credit. Based on the information available to AMEX at the time, she also had no adverse information showing on her credit file.

For card two, whilst Miss J's total borrowing figure had increased, as had the amount of revolving credit she had access to, her salary had also increased by around £30,000. Again, she had no adverse information showing on her credit file.

For card two, although AMEX hasn't said if it relied on this information, it also had an existing relationship with Miss J as she'd taken out the first card around four months prior. So I'd expect, as part of its lending decision for card two, for AMEX to take into account how Miss J had been managing credit card one. Looking at the statements for credit card one, I think it's fair to say Miss J was managing her card well. She didn't appear to be heavily relying on the credit as, in the months leading up to the lending on card two, she made large payments, well above the minimum repayment and wasn't spending up to the limit on the card. So, I think the evidence suggests AMEX would have been able to see Miss J was managing the lending on the first card well and that she had enough disposable income to pay off large amounts of the balance owed each month.

I'm satisfied that even if AMEX had found out more about Miss J's regular committed living expenses, it wouldn't have made a different lending decision on either card. I say this because taking Miss J's regular living expenses and credit commitments together and deducting them from her income means she had sufficient funds left each month to make sustainable repayments on her credit cards. And I can't see anything in Miss J's spending that suggests she was in any financial difficulty nor anything else that ought to have prompted AMEX to reconsider whether it should lend. At both lending points, Miss J, relative to her disposable income, didn't seem to be overly indebted and her financial situation appeared to be stable.

I appreciate Miss J has provided her credit report which may show information additional to what AMEX's credit checks showed at the time of the lending decisions. Whilst I've reviewed that information, the relevant information for me to consider is what AMEX gathered and relied upon. I say this because it isn't a requirement for lenders to review information from all three Credit Reference Agencies. Had I said AMEX ought to have gathered more information about Miss J's credit file, I'd have likely then considered the information Miss J has provided.

In conclusion, given what I've seen about Miss J's disposable income, total level of borrowing elsewhere and how she'd been managing that borrowing, it seems likely Miss J would have been able to sustainably repay the full amount AMEX was prepared to lend on both credit cards, within a reasonable period of time.

Considering all of this, I'm satisfied that AMEX wasn't wrong to issue Miss J with card one with a limit of £10,000 nor card two with a limit of £13,000.

Finally, I've also considered whether the relationship might have been unfair under Section140A of the Consumer Credit Act 1974.

However, for the reasons I've already given, I don't think AMEX lent irresponsibly to Miss J or otherwise treated her unfairly in relation to this matter. I haven't seen anything to suggest that Section 140A would, given the facts of this complaint, lead to a different outcome here.

My final decision

For the reasons I've explained, my final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss J to accept or reject my decision before 1 October 2025.

Sophie Kyprianou
Ombudsman