Financial Ombudsman Service

## complaint

Mr T says Active Securities Limited, trading as 247 Money Box, lent to him irresponsibly. He says 247 Money Box failed to identify he was dependent on payday loans and was stuck in a 'cycle of borrowing to repay previous loans'.

## background

Mr T had 17 loans with 247 Money Box. I've set out some of the details the business provided in the table below.

| Loan no. | Date approved | Date repaid | Amount borrowed | Amount repaid |
|---|---|---|---|---|
| 1 | 25/02/2013 | 14/03/2013 | £120 | £163.04 |
| 2 | 18/03/2013 | 11/04/2013 | £195 | £273.50 |
| 3 | 11/04/2013 | 09/05/2013 | £270 | £390.92 |
| 4 | 09/05/2013 | 09/05/2013 | £400 | £425.04 |
| 5 | 13/05/2013 | 14/05/2013 | £200 | £225.28 |
| 6 | 14/05/2013 | 06/06/2013 | £300 | £412.16 |
| 7 | 06/06/2013 | 04/07/2013 | £300 | £431.36 |
| 8 | 04/07/2013 | 04/07/2013 | £300 | £323.84 |
| 9 | 08/07/2013 | 09/07/2013 | £300 | £327.68 |
| 10 | 16/07/2013 | 01/08/2013 | £100 | £144.48 |
| 11 | 05/08/2013 | 29/08/2013 | £300 | £416 |
| 12 | 30/08/2013 | 26/09/2013 | £400 | £561.12 |
| 13 | 27/09/2013 | 05/10/2013 | £300 | £354.56 |
| 14 | 21/10/2013 | 29/11/2013 | £80 | £168 |
| 15 | 29/11/2013 | 31/12/2013 | £300 | £446.72 |
| 16 | 02/01/2014 | 31/01/2014 | £300 | £435.20 |
| 17 | 01/02/2014 | *outstanding* | £400 | £162.88 |

An adjudicator considered this complaint and recommended it be upheld in respect of loans 4-17. 247 Money Box didn't respond to the adjudicator, so the complaint was passed to me to decide. As loans 4-17 are now the only loans in dispute, my decision will focus on those.

I may refer to loans 1-3, but only because they form part of the history of lending.

## my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. I've taken into account the law, good industry practice and any relevant regulations at the time.

Throughout the period of lending, the regulator was the Office of Fair Trading (OFT). The OFT had published guidance on irresponsible lending (ILG), including an updated version in February 2011. The ILG makes it clear lenders have a duty to lend responsibly – this includes undertaking proportionate affordability checks to ensure customers can repay loans sustainably. The definition of a sustainable repayment includes that payments should be made from income and/or savings, without undue difficulty and while meeting other reasonable commitments. There's no prescriptive list of the sort of checks a lender should carry out, but the guidance says lenders may wish to take into account factors such as the type of credit, a customer's credit history and their existing financial commitments.

With this in mind, I've considered whether 247 Money Box carried out proportionate checks for each loan and, if it didn't, what I think such checks are likely to have shown.

*did 247 Money Box carry out proportionate checks?*

From the information I've seen, it looks like 247 Money Box carried out some credit checks before approving nine of the loans. It also seems to have started asking questions about Mr T's income and expenditure from July 2013 onwards, from the time of the eighth loan it approved. The information from the business suggests it obtained a total expenditure figure encompassing *"mortgage/rent, priority bills [and] other credit commitments"*.

But I haven't seen any evidence that 247 Money Box asked Mr T questions about his income and expenditure prior to loan eight. I've only seen that it did credit checks for some of these loans.

I don't think the above checks were proportionate in the circumstances of loans 4-17. I don't think 247 Money Box could make a reasonable assessment of whether Mr T could afford to repay these loan without asking further questions about his circumstances. I think by the time of loan 4, 247 Money Box had reason to suspect Mr T was relying on short-term finance in a way which could potentially be unsustainable. He'd taken four loans with little to no breaks between them, in just over two months. The amounts lent up to loan 4 were also steadily increasing, by more than threefold when loan 4 is compared to loan 1. This could indicate that Mr T was struggling to meet repayments *"without undue difficulty"*, contrary to ILG 4.4, and wasn't able to also meet his other normal/reasonable outgoings whilst also repaying 247 Money Box.

So I think 247 Money Box ought to have done more to check whether Mr T could afford to repay the loan in a way which was sustainable. Given the frequency of the lending and all the other factors, I think 247 Money Box should have asked Mr T for some sort of proof of his income and outgoings before deciding whether to approve loan 4.

I think the same is true for subsequent loans. 247 Money Box ultimately approved 17 loans for Mr T, in the space of 11 months. Although the individual amounts were not always larger, cumulatively the amounts lent on a per-month basis did increase for a time. For example, 247 Money Box lent Mr T a total of £900 in May, £700 in July and £700 in August 2013. These amounts are all quite high in relation to Mr T's declared income, which (when 247 Money Box started asking) was always £1,400 a month. Throughout the period of time covering loans 5-17, there were no significant gaps between any of the loans and several were approved on the same day Mr T repaid the preceding loan.

I've also kept in mind paragraph 6.25 of the ILG which says that, *"allowing a borrower to sequentially enter into a number of separate agreements for short-term loan products, one after another, where the overall effect is to increase the borrower's indebtedness in an unsustainable manner"* isn't a fair practice. It also says, *"The purpose of payday loans is to act as a short-term solution to temporary cash flow problems experienced by consumers. They are not appropriate for supporting sustained borrowing over longer periods, for which other products are likely to be more suitable."*

So it may have been unfair for 247 Money Box to approve some of the later loans bearing in mind the pattern of lending suggested this type of finance at some point may have become inappropriate for Mr T.

But, putting this thought aside, I've gone on look at what I think it's likely proportionate affordability checks would've identified.

*what would proportionate checks have shown?*

I've considered Mr T's bank statements as I think they provide a reasonable insight into what 247 Money Box would have seen if it had looked at proof of Mr T's income and outgoings. I've also taken into account that 247 Money Box had been told Mr T's fixed outgoings were £400-650 a month, leaving Mr T with disposable income of £750-£1000 before irregular and unexpected monthly costs.

Having considered all of this information, I think proportionate checks would have suggested loans 4-17 were not sustainably affordable to Mr T.

Looking at the period of lending from May-July 2013 (loans 4-10), the total amount Mr T repaid 247 Money Box was around £2,800. During this time Mr T told 247 Money Box his disposable income was in the region of £800 a month – so about £2,400 across the period in question. As the repayments appear to exceed Mr T's approximate disposable income, I think they look unaffordable even before any process of verifying income and outgoings. But had 247 Money Box done this too, I think it would likely have seen Mr T was spending a lot of money on gambling, between £350-£800 a month. So 247 Money Box would likely also have seen that Mr T wasn't using these loans as a short-term solution to a temporary cash flow problem, but to fund an unsustainable level of expenditure which made it unlikely he could repay these loans from his income and/or savings.

Similarly, the loans approved in August (loans 11 and 12) had total payments of about £980, with loan 12 being approved after a gap of just a day and right at the end of the month, when it's likely Mr T had just been paid. Again this suggests Mr T was struggling to repay the loans whilst meeting his other regular commitments. And a full financial review would have indicated his monthly expenditure was still such that the loan repayments likely wouldn't have been sustainable, for broadly the same reasons as loans 4-10.

From what I've seen of Mr T's financial circumstances, there was no significant improvement to his financial situation when loans 13-17 were approved. I think proportionate checks would have indicated that Mr T's expenditure remained too high to sustainably repay these loans, partly because of gambling. But whatever Mr T was spending his money on, I think 247 Money Box could have found out, if it had carried out proportionate checks, that Mr T's expenditure didn't leave room for him to sustainably repay loans 13-17.

In summary, I think proportionate checks would have shown 247 Money Box that it was unlikely Mr T could sustainably repay loans 4-17. So I'm upholding the complaint about these loans.

**what 247 Money Box must do to put things right**

247 Money Box must:

- refund the interest and charges Mr T paid on loans 4-16
- add to the above interest at 8% simple per year, from when they were paid until the date of settlement†
- remove any adverse information about loans 4-17 from Mr T's credit history

I understand loan 17 has an unpaid balance. 247 Money Box must remove any interest and charges from this balance so that only the principal remains. It must treat any payments made as if they were payments towards that principal. It can then deduct the remaining principal from the redress calculated above for loans 4-16.

† HM Revenue & Customs requires 247 Money Box to take off tax from this interest. 247 Money Box must give Mr T a certificate showing how much tax it's taken off if he asks for one.

**my final decision**

I uphold this complaint in part. Active Securities Limited must put things right by taking the steps set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr T to accept or reject my decision before 15 November 2018.

Matthew Bradford
**ombudsman**