

The complaint

Ms M complains that American Express Services Europe Limited (AESEL) was irresponsible in its lending to her.

What happened

Ms M was provided with an AMEX credit card by AESEL in June 2016. The initial credit limit was £1,000. The credit limit was then increased on five occasions resulting in a maximum credit limit of £13,500 in 2019. The credit limit was then reduced on three occasions bringing it to £5,160 in 2021.

Ms M says that she was provided with continuous credit limit increases without her age and salary being taken into account. She says this resulted in her getting into unreasonable debt noting that her limit exceeded her annual income at one point. She says that regular credit and affordability checks should have taken place to prevent thousands of pounds being lent to her when she couldn't afford to repay it. Ms M says that although her credit limit was reduced, at some stage the interest rate was increased resulting in her struggling to pay more interest.

AESEL provided a final response in May 2023. It said that Ms M applied for a credit card through its website and the terms and conditions were available to her. It said it carried out the required credit worthiness checks and Ms M's credit limit was provided based on the information received through her application and the credit check results. It said that there was the option to reduce the credit limit had Ms M wished to do this. It said it carried out regular conduct credit reviews and that Ms M's credit limit was decreased to £5,860 on 10 July 2020 and then to £5,160 on 22 January 2021 after concerns were raised by its credit review department. It said that it hadn't done anything wrong by providing the credit to Ms M and so it didn't uphold her complaint.

Ms M wasn't satisfied with this response and referred her complaint to this service.

Our investigator issued a jurisdiction view saying that he was only able to consider the merits of the complaint from the credit limit increase in June 2017, due to when the events happened, and the complaint was raised. This was accepted by both parties.

Our investigator said that AESEL hadn't been able to provide evidence of the checks carried out before the June 2017 credit limit increase or subsequent increases and based on the information available he didn't think the credit card should have been provided. He upheld this complaint in regard to the credit limit increase in June 2017 and all subsequent increases.

AESEL said that evidence of its checks had been provided and asked for the complaint to be passed to an ombudsman 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.

Our approach to considering complaints about unaffordable and irresponsible lending is set out on our website. I've had this approach in mind when considering what's fair and reasonable in the circumstances of this complaint.

AESEL needed to demonstrate that before they accepted Ms M's application for the credit card, and when subsequent credit limit increases were applied, that they had carried out reasonable and proportionate checks to ensure that the credit provided would be affordable and that this was not irresponsible lending.

Given the timing of the events and when this complaint was raised, this decision relates to the credit limit increases that took place in June 2017 and subsequent to that date.

There is limited information available of checks that were undertaken before the credit limit increase to £2,200 was applied in June 2017. The credit check results that have been provided are for when the account was opened and these record Ms M as having outstanding debts of £27,824. While the credit report doesn't show any accounts in default or judgements against Ms M, I think the level of debt should have raised concerns. Given this I think it was important to get a clear understanding of Ms M's financial circumstances to ensure that any additional lending was affordable for her.

AESEL has said that it wouldn't have carried out an income verification at that time and based on the information provided it appears that an annual income of £21,000 was likely used in the initial assessment when the account was opened and for the subsequent credit limit increases (this amount is recorded as the arbitrated income for the 2018 and 2019 increases). While I appreciate the comments made about the regulations in place at the time, given Ms M's level of debt I think it was important that AESEL had a clear understanding of her income and expenses. I have therefore looked through the additional information that has been provided to establish what AESEL would likely have found had it carried out reasonable checks.

Ms M's bank statements show that she was receiving monthly income of just over £1,200 in the months leading up to the June 2017 credit limit increase. This is a lower amount than would have been expected from an annual income of £21,000. Ms M was making regular payments for items such as insurance, communications contracts, credit commitments and general living expenses. Given the time that has passed, and limited information provided, I cannot say for certain the amount of other credit Ms M had outstanding at the time of the credit limit increase. But her outgoings were around the same or higher than her income for the months leading up to June 2017 and Ms M was regularly needing to use her overdraft and incurred fees as a result.

As I think the initial checks undertaken when the credit card account was provided raised concerns about Ms M's total debt compared to her income, that further checks would have shown her income to be lower than AESEL had recorded and as her statements show that at the time of the June 2017 credit limit increase, Ms M didn't appear to have capacity to take on further credit, I find, on balance, that AESEL shouldn't have considered the credit limit increase in June 2017 as sustainably affordable.

AESEL then increased Ms M's credit limit six months later to £3,000 at the same time as she had taken out another loan and then to £9,000 in November 2018 a month after she had taken out a further loan for £3,500. Ms M had also taken on additional credit card debt in October 2017. I think this suggests Ms M's dependency on debt was increasing. By the time of the final credit limit increase, Ms M's income had increased to just over £1,500 a month but her outgoings had also increased, and she was making greater use of her overdraft

every month.

On balance, I find that the initial checks carried out when the credit card was provided raised concerns and I think that had checks been undertaken before the credit limit increases these would have suggested that providing further credit to Ms M wasn't responsible. Therefore, I am upholding this complaint from the credit limit increase in June 2017.

Putting things right

As I don't think AESEL should have increased Ms M's credit limit above £1,500, I don't think it's fair for it to charge any interest or charges on any balances which exceeded that limit.

Therefore, AESEL should rework the account removing all interest, fees, charges, and insurances (not already refunded) that have been applied to balances above £1,500.

If the rework results in a credit balance, this should be refunded to Ms M along with 8% simple interest per year* calculated from the date of each overpayment to the date of settlement. AESEL should also remove all adverse information recorded after June 2017 regarding this account from Ms M's credit file.

Or, if after the rework the outstanding balance still exceeds £1,500, AESEL should arrange an affordable repayment plan with Ms M for the remaining amount. Once Ms M has cleared the outstanding balance, any adverse information recorded after June 2017 in relation to the account should be removed from their credit file.

*HM Revenue & Customs requires AESEL to deduct tax from any award of interest. It must give Ms M a certificate showing how much tax has been taken off if she asks for one. If it intends to apply the refund to reduce an outstanding balance, it must do so after deducting the tax.

My final decision

My final decision is that I uphold this complaint. American Express Services Europe Limited (AESEL) should take the actions set out above in resolution of this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms M to accept or reject my decision before 11 December 2023.

Jane Archer
Ombudsman