

Mr Geoff McConville and Danske Bank NI

Illustrative example of an SME case prior to Financial Crisis in 2008 (actually from 2001) which continues to trade today having being sold an embedded structured collar product by Northern Bank (now Danske Bank NI) and which under our proposals would have the ability to complain at their choice to either the “Ombudsman Service” or the “Financial Services Tribunal” as their claim is for over £25,000 and under £600,000.

**Planned speech by Mr Gavin Robinson MP on 9 October 2018 at 4.30 pm - 6.00 pm
Backbench debate by APPG on Fair Business Banking**

Unable to deliver speech as attending a Commons Defence Select Committee meeting to 5.52 pm

Gavin Robinson (East Belfast) MP - part only

“I too, congratulate the Hon. Member for Hazel Grove (Mr Wragg) on securing the debate. This debate is about bank fraud. Recently Danske Bank A/S has become almost synonymous in Denmark with money laundering. For the Scandinavian country’s biggest bank, the scandal started in Estonia, where Danske has admitted that much of US\$235 billion in non-resident flows between 2007 and 2015 can be deemed suspicious. The FCA is now also reported to be investigating here in London.

(Removed detail on case from planned speech.....)

I understand there may also be a former Danske employee as a whistleblower.

Our thinking has moved forward here, since Mr Shannon’s Submission to the TSC SME INQUIRY and the FCA Consultation CP18/3 in April 2018, and in light of words of the Banks now, exactly a decade after the UK taxpayer and banking victims “saved” RBS and LLOYDs/HBOS, we think banks should demonstrate their new conduct and behaviour and have a final opportunity to consider the legacy complaints. If settled then fine and if not all the documentation in their defence should be provided to the complainant so it may form part of their defence at an Ombudsman or Financial Services Tribunal as appropriate.

In Mr Shannon’s discussions with both the APPG Fair Business Banking secretariat and SME Alliance executives the DUP believe there would be support from those quarters for such a final voluntary scheme – as National Australia did for embedded Structured Collar sales at Clydesdale and Yorkshire - and if we take the banks at their word / PR now then why would they not accept a voluntary scheme for legacy complaints from banking victims where they can consider carefully each individual case. As my DUP colleague Mr Sammy Wilson MP has stated we should remember that it is the banking victims and UK taxpayer who are worse off today and saved the UK Banking system a decade ago and some of the Banks are using taxpayers money to fight these legacy bank cases.”

End of draft



Fair Business Banking

Case study: Mr Geoff McConville and Danske NI (formerly Northern Bank)

4th October 2018

Mr McConville, an optician from Belfast, has suffered for many years as a consequence of a toxic bank loan which was undoubtedly mis-sold to him by Northern Bank.

The type of loan mis-sold to Mr McConville contained an Interest Rate Hedging Product (IRHP) called a structured collar. The consequence of this was that when interest rates fell his repayments increased enormously.

Customers of Clydesdale and Yorkshire Banks who were mis-sold the very same product as Mr McConville have received full redress. Mr McConville has not because Danske Bank (who acquired Northern Bank and therefore Mr McConville's loan) has failed to deal with the situation.

Background

IRHPs are a type of derivative used to manage interest rate risk by professional financial traders. During the 2000's banks across the UK sold them to many thousands of unsophisticated small business customers who did not understand them, because they were very lucrative. Consequently unsuspecting SMEs ended up paying sustained high interest rates in a low-interest environment and suffered badly.

Standalone IRHPs are FCA-regulated products so the FCA was able to set up an IRHP Review in 2013. £2.2 billion redress was paid out to customers and importantly, **customers mis-sold the most complex and damaging 'Category A' IRHPs, structured collars, were all given automatic redress.**

National Australia Bank (NAB) owned Clydesdale, Yorkshire and Northern Banks. All three banks widely sold loans to SMEs and called them Tailored Business Loans (TBLs). These were effectively IRHPs in disguise. Different types of TBLs had different types of IRHPs embedded into the loan contract from vanilla swaps (Category C) to the highly toxic (Category A) structured collars.

In 2014, TBL contracts were investigated by the Treasury Select Committee, who concluded that they had, 'retained the risks and complexities of the regulated product but had none of the safeguards'. The TSC went as far as to say that NAB, 'created TBLs to avoid requirements imposed by the regulator'.

Customers who had been mis-sold these unregulated products could therefore not participate in the FCA's IRHP Review. However, in recognition of the toxicity of the embedded IRHPs in TBLs, NAB's remaining banks, Clydesdale and Yorkshire, agreed in 2013 to undertake a Voluntary Review of over 2,000 sales of their more complex TBLs, i.e. those which contained embedded caps, collars or structured collars. Through this scheme most customers received redress and, to my knowledge, all customers who were mis-sold Category A embedded structured collars received full redress.

Danske had taken over Northern Bank many years before NAB's Voluntary Review. Therefore Northern customers like Mr McConville, who had been mis-sold the very same TBL product as Clydesdale and Yorkshire customers, found themselves with no route to redress. Had Northern Bank still been in NAB's ownership, he would have been able to participate in NAB's Voluntary Review. In this case I have no doubt that he would have received full redress many years ago.

Conclusion

Despite Mr McConville's complaints over many years Danske Bank have refused to accept any responsibility for his predicament. Mr McConville was not at fault when he was mis-sold his TBL; Northern Bank was to blame. It cannot be acceptable that the acquisition of Northern by Danske prevents Mr McConville from accessing the justice he so obviously deserves.

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Background notes

SAR documentation available and all information from FOS submission to create a Documents Index.
Expert Witness statement available and former employee as whistleblower.

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FINANCIAL CONDUCT AUTHORITY CONSULTATION ON THE FINANCIAL SERVICES INDUSTRY AND SMEs

16:4:18

Jim Shannon
David Simpson
Paul Girvan
Ian Paisley
Sir Peter Bottomley
Gavin Robinson

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That this House recognises the progress of discussions on the financial services industry involving the Financial Conduct Authority (FCA), HM Treasury and small and medium-sized enterprises; welcomes the current FCA review and launch of the CP18-3 consultation paper following the backbench business debate on RBS Global Restructuring Group held on 18 January 2018; notes with special reference Q4 within the FCA Consultation (CP18-03) which asks about the date of coming into force for changes introducing small businesses as eligible complainants and such changes only applying to complaints made to a firm regarding acts or omissions of the firm which occur from 1 December 2018; further notes that the FCA has the powers and sets the rules on how the Ombudsman should handle complaints further; notes that the jurisdiction of that service is published as part of the FCA's handbook, in the section called Dispute Resolution (DISP) rules: complaints and that DISP 2.8.2 is found within Chapter 2; and asserts that the FCA must add with immediate effect a clause (C) stating that if the complainant brought their complaint to an hon. Member at any time from 1 September 2007 to 21 April 2018 and has a written acknowledgment or some other record of action on the complaint, from that hon. Member during that period; to ensure that the FCA cannot ignore past banking victims.