

Banking and Finance

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Banks braced for court ruling on mis-selling scandal



Holmcroft Properties Ltd was mis-sold interest rate hedging products by Barclays in 2005 and 2008 Andy Rain/ EPA

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A landmark legal hearing next month could open the floodgates for further legal challenges from victims of the mis-selling of £1.8 billion-worth of complex financial products.

A senior judge will decide whether there should be a judicial review of the Financial Conduct Authority's redress scheme for companies mis-sold interest rate swaps by banks.

The case centres on whether the regulator allowed the perpetrators of mis-selling to unduly influence the compensation process to reduce payments to victims, many of whom lost their businesses because of the impact the products had on their finances.

If the judge rules in favour of the claimant, an Isle of Man property developer, the subsequent judicial review could lead to claims from hundreds more mis-selling victims seeking larger pay-outs — and the bill for further compensation is likely to run into at least tens of millions of pounds.

Holmcroft Properties Ltd was mis-sold interest rate hedging products by Barclays in 2005 and 2008, which the company claims resulted in the loss of five properties when rates fell during the financial crisis. The FCA scheme found that Barclays had failed to properly explain the nature of the products to Holmcroft, resulting in a £500,000 payment to the company. However, the business says its losses were far greater.

The application for the judicial review hinges on the role of the FCA scheme's "independent reviewers", accountancy firms responsible for signing off on banks' methodology behind redress payouts.

Holmcroft's lawyers at Mishcon de Reya claimed that KPMG, the independent reviewer in its case, had failed to ensure that the process and compensation had been fair.

Court documents filed on behalf of KPMG admit that Holmcroft was "not informed how the review process operated between the bank and KPMG". The accountancy firm added that the FCA scheme "was not a process designed or intended to provide procedural fairness to customers".

The judicial review application is due to be addressed during a day-long hearing on April 24. It is being contested by Barclays, KPMG and the FCA.

James Oldnall, a partner at Mishcon, said: "If we're right, every independent reviewer's decision about consequential loss, or the wider redress scheme, will be open to question."

However, a source close to the review process suggested that further legal wrangling was likely to follow, even if the application is successful.

John Griffith-Jones and Martin Wheatley, respectively chairman and chief executive of the Financial Conduct Authority, are bracing themselves for severe criticism from MPs over a bungled select media briefing that wiped billions of pounds from the value of British insurance companies.

The Treasury select committee is to report on the handling of a planned inquiry into the sale of millions of closed-life insurance policies last year. An attempt to leak the news sent shares in the likes of Aviva, Friends Life and Legal & General tumbling.