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Call for review of rates swap compensation



Andrew Tyrie: The FCA needs to do much more to demonstrate that this process is credible
Paul Rogers/The Times

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MPs have warned that the government may have to intervene to address possible “systemic failures” in the financial regulator’s compensation scheme for victims of the mis-selling of complex interest rate derivatives.

The Treasury Select Committee demanded that the Financial Conduct Authority conduct a full review of its redress scheme for tens of thousands of small and medium-sized companies that were mis-sold interest rate swaps by high street banks.

Andrew Tyrie, chairman of the committee, said that if the FCA cannot prove that its compensation scheme is credible, the Treasury should intervene to ensure victims of the scandal receive a fair deal.

In a highly embarrassing report for the City regulator published last night, the committee said it is “far from clear” whether the FCA’s scheme has delivered “fair and reasonable redress” to the businesses affected.

Victims, many of whom saw their businesses destroyed by the complex products, complain that banks have been allowed to minimise compensation because banks were given too far much influence over the redress process.

MPs warned that the scheme appeared to be resulting in inconsistent outcomes for victims depending on who their bank was.

Mr Tyrie said: “The FCA needs to do much more to demonstrate that this process is credible and has not unduly favoured the banks.

“As part of this work, the FCA should collect the information necessary to establish whether there are systemic failures in the review. This would benefit from independent oversight. It should publish its findings.

“Greater transparency is crucial in order to ensure that those SMEs mis-sold these products receive — and are seen to receive — appropriate redress.”

Section 77 of the 2012 Financial Services Act gives the Treasury the power to demand that the FCA undertakes an investigation. Mr Tyrie said that he

hoped this would not be necessary but called for the measure to be used if the regulator is unwilling to carry out a review of the compensation process.

Mr Tyrie said he hoped this would not be necessary, but called for the measure to be used if the regulator is unwilling to carry out its own review of the compensation process.

He said: “Greater transparency is crucial in order to ensure that those SMEs mis-sold these products receive – and are seen to receive – appropriate redress.”

Last month, The Times revealed that officials at the regulator altered the terms of the redress scheme under pressure from lenders.

In a secret last minute concession when the terms of the redress scheme were being decided, the FCA introduced a cap that excluded any business with swaps worth more than £10 million from using the compensation scheme.

This rule excluded about one third of the businesses who were sold interest rate hedging products.

Mr Tyrie demanded that the FCA write to the committee to explain this decision and whether “it represented a concession to bank lobbying, and of not, why not”.

While the scheme has seen 11,000 customers accept redress offers amounting to £1.8 billion, the committee’s report warned that thousands of customers may have unfairly been excluded from the process based on an “arbitrary” definition of the sophistication of borrowers.

The committee’s report also attacked Royal Bank of Scotland for an apparent “systemic weakness of standards and culture” over its global restructuring group, its turnaround division for troubled companies.

RBS has been subject to allegations that GRG deliberately put business into administration for its profit.

The committee said it was not clear whether the bank or the customer was the main beneficiary of the division.

Mr Tyrie said a contentious review of GRG by Clifford Chance, which was commissioned by RBS, “should not be considered a clean bill of health”.

He suggested the law firm’s review was not independent and its terms of reference were far too limited.

RBS is facing a legal challenge from hundreds of former customers who claim they were wrongfully put out of business by GRG.

The unit is also subject to a formal FCA investigation and the Serious Fraud Office has been considering launching a criminal investigation.

The committee’s report also fired a general warning over the dire state of competition in SME banking.

Mr Tyrie said a Competition and Markets Authority investigation into the banking market should seriously consider “structural reform of the sector” in order to reverse a situation which sees “millions of consumers and small businesses” getting a raw deal.

The FCA should produce an annual report into the results of its own remit to promote competition, overseen by the CMA, he added.

“The CMA should assume responsibility for reaching an annual judgement as to whether the FCA is fulfilling its statutory duty.”