

23 November 2012

Dear Sir/Madam,

I am writing to you because you were sold an interest rate hedging product ("IRHP"). As the regulator for the UK financial services industry, we have found that a number of banks have mis-sold some of these products. We would like to provide you with some information on a review that we have set up to look into this issue.

We have set up this review with the following principles in mind:

#### **Independent oversight**

Independent reviewers have been appointed by each bank to provide rigorous oversight of the review exercise to ensure fair and reasonable outcomes for customers. These appointments have been scrutinised by the FSA to ensure they have the necessary skills and expertise to understand both the complex aspects of IRHPs and the specific needs of small businesses. We also asked the banks to undertake a pilot exercise reviewing up to 50 cases (more information on the factsheet overleaf) and we will be checking the results of this. We will not allow the main review to begin until we are satisfied that fair and reasonable outcomes will be delivered for you and the other customers affected.

#### **Prompt resolution**

We have told the banks that, once the main review begins, they should aim to complete it within 6 months. However, based on the experience of the pilot exercise it may take up to a year in some cases as customers must not feel rushed when responding to their bank's request for recollections of the sale. The banks have agreed to prioritise cases where customers are in financial difficulty.

We want you to have the opportunity to provide your recollection of the sale and all relevant facts, documentation and testimony must be taken account of. Therefore it is important to retain any information you feel is relevant to your review.

We appreciate that waiting for the main review to start may be frustrating and that as small businesses you need this issue to be resolved quickly.

For customers automatically included within the review, your bank will contact you (or may have contacted you already) with the following:

- details on practical next steps,
- how to engage with the review process and;
- to ask you to provide any information you feel should be taken into account.

You can find more information in the attached factsheet. There are also more details, including the different approaches for the different products being reviewed on our website at: [www.fsa.gov.uk/interest-rate-swaps](http://www.fsa.gov.uk/interest-rate-swaps). We will update our website regularly to give you the latest news on the progress of the review.

If your question is not answered on our website, or if you have any concerns about the review, please contact our Consumer Helpline on 0845 606 1234 or by email at [consumer.queries@fsa.gov.uk](mailto:consumer.queries@fsa.gov.uk).



Clive Adamson

# Information for small businesses

## Background to the review

This summer, we reached an agreement with a number of banks on the sale of IRHPs. This was based on a review we conducted into sales at four of the largest banks. We found evidence of a number of poor sales practices across a number of products, including:

- Poor disclosure of exit costs;
- Failure to ascertain the customers' understanding of risk;
- Non advised sales straying into advice; and
- Inappropriate 'over-hedging' (i.e. where the amounts and/or duration do not match the underlying loans).

Our findings will form an important aspect of the review conducted by all the banks. We have set up the review process with you and the other customers in mind and it has been designed to be straightforward and simple to understand.

## Scope of the review

In our view, smaller businesses are unlikely to possess the specific expertise to understand all of the risks associated with these products. Businesses above a certain size are not included in the scope of the review. If you believe you should be included there is more detail about the specific criteria on our website at: [www.fsa.gov.uk/interest-rate-swaps](http://www.fsa.gov.uk/interest-rate-swaps).

## Rigorous oversight

We have required all banks to appoint independent reviewers to oversee each and every case. If you are in the scope of the review, you will be able to have the reviewer present when the bank speaks to you. We will also oversee the review to ensure it delivers fair and reasonable outcomes for you.

Certain customers will have already received a letter from their bank explaining that they will be contacted in due course once the main review has begun. We appreciate that waiting for the main review to start is frustrating, as you want and need this issue to be resolved quickly. Whilst we understand the importance of getting this resolved quickly and have communicated this to the banks, we must also make sure that the review achieves fair and reasonable outcomes for you.

This is why all the banks are currently conducting a pilot exercise. This involves each bank reviewing up to 50 cases. If you are one of the small businesses included in the pilot, your bank will have been in touch with you already.

## Fair and reasonable redress

Depending on the outcome of the review, redress may or may not be appropriate. Where appropriate, redress will be determined on the basis of what is fair and reasonable in each individual case, and will be designed with you, the customer, in mind. You will have the opportunity to discuss the nature of redress before a final offer is made. The exact nature of the redress will vary from case to case and will be dependent on a number of factors but it could for example include a mixture of cancelling or replacing existing products with alternative products, and partial or full refunds of the costs of those products.

## Listening to small businesses

It is vital that you are involved in the review of your case, and that a judgement is reached by looking at evidence provided by both you and the bank. We are asking the banks to contact you, as part of the review process, to give you an opportunity to describe your experience of the sales process. This is a forum for you to describe what happened in your particular case – if you have any concerns about this meeting then you can ask for the independent reviewer to be present.

We want to ensure that small businesses continue to have a voice as the review progresses. We will carry on communicating with you directly, but we want to ensure that both the FSA and the banks can benefit from the experience of as many different customers as practical. To help achieve this the Treasury has set up a regular meeting between themselves, the FSA, the banks, the Federation of Small Businesses ([www.fsb.org.uk](http://www.fsb.org.uk)) and the small business group Bully-Banks ([bully-banks.co.uk](http://bully-banks.co.uk)).

We believe that this is the right approach for achieving fair and reasonable outcomes as quickly as practically possible, while ensuring that the customer remains at the heart of the review.