PROMONTORY
an IBM Company

Kevin Hollinrake MP
Co-Chair for the All Party Parliamentary Group on Fair Business Banking
House of Commons
London
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14 September 2018

Dear Mr Hollinrake

Thank you for your letter of 16 August 2018 asking about Promontory's report to the FCA on RBS's Global Restructuring Unit.

As you know our report was finalised and sent to the FCA in September 2016. Subsequently it was published in full by the Treasury Select Committee. As explained in our report our role as skilled persons appointed under s166 of FSMA was set out in our terms of reference – the 'requirement notice'. In phase 1 the objective was to form a view about whether inappropriate treatment of customers was evident and whether in any respects this was widespread and/or systematic.

As you know we remain under conditions of confidentiality given s348 of FSMA, and in these circumstances there is little if anything that I can add to what has already been set out in public.

You ask whether instances of fraud were identified and raised with the relevant authorities, and you link this specifically to the suggestion that businesses were transferred to GRG based on their value to the bank rather than their level of distress. This allegation was of course one that we considered – our findings are set out in Chapter 4.1. As you note across all the cases we reviewed we saw no evidence that persuaded us that there was a general practice of targeting businesses based on their value to GRG. We did however identify in a small number of the cases we reviewed, that GRG considered during the transfer process, its own perception of the potential advantage to GRG of that particular customer. Overall we concluded that the transfer process was not well governed.

I discussed this in evidence to the Select Committee. As I said there, the facts of these few cases are disputed, but in our minds they gave rise to some concern. This was not a finding by us of fraud on the part of RBS – as you know we reached no such finding. Rather ours was a point of good governance. GRG had a say on who was transferred to it, but in these cases we also saw some evidence of thinking by GRG staff of the steps they might take if/when the customer was transferred. To a degree such considerations might be viewed as a natural part of a process where a customer is in the process of being handed from one team to another – especially where there is an urgency to the actions that need to be considered. However, we were concerned that this gave rise to a situation where it was possible to believe that the transfer process had been influenced by perceptions of the benefit to GRG.

It is also important to stress that there were limits on the nature of the evidence we obtained and the scope of our enquiries. The purpose of our review of cases was to inform the overall issues we were asked to review – not as such to reach a final view on the legal rights of the parties to disputes.

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In carrying out our work we saw nothing which led us to consider a referral to the SFO and/or NCA necessary. Had we identified evidence of fraud we would of course have reported it to the FCA and referred it to other relevant authorities as appropriate.

I am grateful to you for drawing my attention to the APPG's on-going work in this area and pleased that you found the recommendations in our report of interest.

Yours sincerely

Tony Boorman
Managing Director