



HOUSE OF COMMONS

LONDON SW1A 0AA

Andrew Bailey  
CEO  
The Financial Conduct Authority  
12 Endeavour Square  
London E20 1JN

17<sup>th</sup> October 2018

*Dear Andrew*

**CLYDESDALE BANK TAILORED BUSINESS LOANS INVESTIGATION 2014**

On 17<sup>th</sup> June 2014, David Thorburn, the Chief Executive of Clydesdale and Yorkshire Banks and Debbie Crosbie, Chief Operating Officer, CYBG, and Executive Director, Customer Trust and Confidence, National Australia Group Europe gave evidence to the Treasury Select Committee as part of their report into conduct and competition in SME lending. Chris Woolard, Director of Policy, Risk and Research, and Nausicaa Delfas, Head of the Specialist Supervision Department, Financial Conduct Authority then gave evidence to the TSC on 1<sup>st</sup> July 2014.

At the time, your representatives from the FCA confirmed frustrations in that the structuring of these fixed rate IRHP's were "tailored" to fall out with the scope of regulation.

One of the findings within the FSA's 2013 publication on IRHP's stated:

*"Our view is that, for the disclosure of break costs to comply with our regulatory requirements, the bank should be able to demonstrate that:*

*In good time before the sale, the bank provided the customer with an appropriate, comprehensible and fair, clear and not misleading disclosure of any potential break costs.*

*To determine whether a sale complied with our regulatory requirements, the banks will need to take account of the individual circumstances of the customer and the circumstances of the sale to determine whether it is reasonable to conclude that the customer could have understood the features and risks of the product. This will be a case-by-case assessment which may involve a consideration of:*

*the customer's knowledge and understanding of these types of products generally;  
the customer's interaction during the sales process;  
the complexity of the product; and the quality and nature of the information provided during the sales process and when and how it was provided."*

The report confirms that your representatives wrote twice to the Treasury, requesting more powers to deal with Clydesdale's TBLs, without success.

Clydesdale Bank committed to carry out an internal investigation, one which would mirror the investigation being undertaken by the FCA into similar loans which did fall within the realms of regulation.



As most of us now know, and as confirmed in the Westminster Hall debate on 9<sup>th</sup> October 2018, they did not conduct a review of any worth and within nine months of making the promise to investigate, most of their customers loans were timed out in March 2015.

The All Party Parliamentary Group on Fair Business Banking's research has uncovered a promise by Clydesdale Bank's principles, when questioned at the Treasury Select Committee by Jesse Norman MP.

They were asked that, if requested by the regulators, we assume this to be the FCA, to bring these products in within the "perimeters" of your review, would they concur to this request?

Their answer was as follows:

*"If the regulator was keen to do more with us of course we would co-operate as we do with them on all other matters."*

As the chairman of the Treasury Select Committee stated in 2014, quoting your predecessor:

*"Martin Wheatley has said in evidence, and I am quoting, "A customer who has taken out a loan with an embedded interest-rate hedging product" that is a swap, "may be faced with exactly the same repayment features and exactly the same break costs as a swap". If it behaves like an elephant, looks like an elephant, is it not an elephant?"*

Also, the Approved Person's Rules gives the FCA a clear route, under the Statements of Principle, to investigate where a Controlled Function Individual i.e. David Thorburn, Clydesdale Bank's CEO, is party to, or has knowledge of, a product that has been designed to escape regulation or where they have knowledge of misleading sales practices.

If you oversee the investment, development and sales side of the bank for years, as David Thorburn did, you cannot escape responsibility for thousands of mis-sold products, causing SMEs £billions of damages. Mr Thorburn and CYBG should be investigated by the FCA without further delay.

In view of this, and the fact that there are many unanswered questions relating to this product, the APPG requests that you take Clydesdale Bank up on this publicly stated pledge and secure answers on the same basis as they would have had to do if these products had been regulated.

We trust that you welcome news of this breakthrough information, and that you will take Clydesdale Bank up on their promise, so that finally this product can be investigated for what it actually is.

Due to the continued high public interest in this matter, I will make this letter and your reply public.

Kind regards,

Kevin Hollinrake MP  
Co-Chairman of the All-Party Parliamentary Group on Fair Business Banking