



HOUSE OF COMMONS

LONDON SW1A 0AA

Andrew Bailey
Chief Executive
Financial Conduct Authority
12 Endeavour Square
E20 1JN

12th March 2019

Dear Andrew,

In the period between UK Finance's historic compensation scheme being designed and the actual proposed scheme opening in September 2019, we are concerned about the destruction of documentation and the continued legal proceedings against businesses that may prejudice the outcome of the historic scheme.

Destruction of Documentation

The APPG has been presented with evidence from individuals and their representatives who allege that financial institutions have destroyed vital documentation and routine correspondence relating to their claim against the bank.

You will be aware that in Mr Keith Elliott's case the liquidator stated that a factor in the claimants' decision not to proceed to trial was due to the "*regrettable destruction of documents by both defendants, meaning that only limited documents relating to their key individuals were available for trial*". Since then, we have been made aware of another case in which a financial institution has destroyed documentation relating to a claim after the complaint was lodged and whilst the complaint is ongoing.

This is extremely concerning in its own right, but is all the more concerning given the historic compensation scheme that is to be established in the next few months and which will require documentation and correspondence from financial institutions.

Q1. Could you therefore send official direction to the banks to desist from their routine protocols of deleting records over a certain age and to preserve documentation in preparation for the historic review?

Q2. What measures will you take against any bank that has been found to have destroyed documentation?

Suspension of Action

As you are aware, there are several ongoing cases involving disputes between businesses and banks, across the industry. We are concerned that financial institutions will continue action against individuals whilst the historic compensation scheme is being established that will escalate damages and cause unnecessary consequences for individuals and businesses.

Clydesdale Bank/Promontoria

We are pleased that you have in a letter to me that there is a case for Fixed Rate Loans to be included in the historic scheme. As you will be aware, the CYBG Remediation Group recently held a conference in Glasgow. Over a third of their members have had their loans transferred to Promontoria, who are aggressively pursuing their asset stripping activities through the courts.

Two members of the group have imminent court dates scheduled, in which they expect to lose their properties and face insolvency. We can both agree that all steps should be taken to avoid unnecessary insolvency, especially given that this may affect their ability to make a claim as part of the historic review.

There is great urgency to hold proceedings until the cases have been heard by an independent scheme, particularly in cases involving the sale of debt to third-parties, including Promontoria. Although calling a moratorium period may seem improbable given that Cerberus are unregulated, a member of the CYBG Remediation Group has evidence that the title deeds of their properties do not reflect any change of registered proprietor of the charge provided by CYBG and that no money has changed hands when their accounts were assigned to Promontoria.

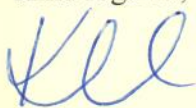
It has been confirmed to the APPG by a lawyer familiar with these cases that the terms of the agreements by which CYBG sold accounts to Promontoria enables Promontoria to pay for the accounts, and so the assignment to become effective, when properties are actually sold. It is therefore highly possible that Promontoria effectively only act as agents or debt collectors for CYBG.

If it is true that Promontoria do not pay the purchase price for CYBG's accounts up front, it would appear David Duffy would have the power to suspend Promontoria's activities to enable the furtherance of the historic scheme.

The urgency for a suspension of action is demonstrated by the case of Mr John Guidi, who is going on hunger strike from 17th March after being made bankrupt and facing eviction from his family home. Mr Guidi alleges that Clydesdale mis-sold him £10m of Tailored Business Loan (TBL). Mr Guidi may be eligible for the historic compensation scheme once it is established, but may be excluded on the basis of the actions being undertaken by Clydesdale currently.

Q3. Will you call for a moratorium period across all banks to prevent action against businesses that may conflict with the historic compensation scheme?

Kind regards,



Kevin Hollinrake MP

Co-Chair of the All-Party Parliamentary Group on Fair Business Banking