



HOUSE OF COMMONS  
LONDON SW1A 0AA

David Duffy  
Group Chief Executive, CYBG  
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27<sup>th</sup> August 2019

Dear David

Further to our previous meeting and the correspondence you have had with the APPG, I wanted to follow up on your most recent correspondence and the current situation with regard to Mr John Guidi and others with ongoing issues with your bank. I have been waiting to see how things would unfold, and I most disappointed to hear that no progress whatsoever has been made.

**John Guidi**

I am alarmed to hear that Mr Guidi has restarted his hunger strike this week, and that there are, indeed, others, some of whom are not in good health, who have joined him.

I also understand that no substantive progress or, indeed, much-needed follow up, has occurred since your initial fact-finding meetings in early April, and the affected customers are now receiving blanket rejections and refusals of constructive engagement.

As we have previously stated, we had hoped to see CYBG engage in a meaningful, proactive and productive discussion.

The specific events leading up to Mr Guidi's current situation need to be thoroughly examined and the bank's culpability at all the points along the way need to be properly investigated for all affected customers. In particular, Mr Guidi claims that the introduction of a 'net' rental cover covenant in 2011 rendered him instantaneously in breach of contract and began the cascade of events leading to the loss of his business and eventual bankruptcy. This is key to this case and appears not to have been addressed.

However, all evidence thus far, is that it is burying its head in the sand. For the absolute avoidance of doubt, this issue will not go away.

**APPG on FFB Outstanding Lending Code Queries**

I refer to the letter from Kevin Hollinrake MP of 08 May. In particular you were asked a series of specific questions regarding the Lending Code.

Your last letter did not address any of the queries we raised. Rather, like others, we were given a rather vague and mundane statement that basically answered nothing.

Please answer the queries as per our original letter. For your ease, they are replicated here:  
The relevant Lending Code in place, at the time of the sale to NAB and to Cerberus, referred to in our earlier letter states that:

Paragraph 232. Subscribers should follow a due diligence process when selecting any third party for debt sale. Any new contract should ensure that the third party will comply with data protection legislation, consumer credit legislation, the Consumer Credit Sourcebook, the code of the Credit Services Association and the Lending Code's standards for handling financial difficulties even if the debt purchaser is not a subscriber.

- 1. Can you confirm that you went through this due diligence process for both sales, especially given the adverse media attention generated by Cerberus prior to the sale of the debt?*

Paragraph 233. Additional care needs to be taken when dealing with certain types of debt. Where a customer or his agent has provided appropriate and relevant evidence of an ongoing mental health problem that affects the customer's ability to repay their debts, the debt should not be sold.

- 2. Failure to do so would be a breach of the Code, and these loans should therefore remain the responsibility of CYBG. Please confirm that you went through each individual loan on a case-by-case basis to identify vulnerable customers? Please confirm this was done for both the transfer to NAB and the subsequent sale to Cerberus?*

Paragraph 234. Subscribers should undertake appropriate monitoring in order to satisfy themselves that debt purchasers to whom they have sold customers' debts continue to deal with such customers in a manner that is consistent with the relevant requirements of the Code and the relevant contractual terms. Such monitoring should be conducted at least annually where subscribers continue to sell debt to a purchaser, and for a further two years after they have stopped selling debt to that purchaser.

- 3. What steps did you take to ensure that both NAB and Cerberus dealt with customers in a manner that is consistent with the relevant requirements of the Code? For how long do you maintain this monitoring? Please provide dates. As I understand the Code, this would mean that monitoring only stopped late last year including during the period following the Senior Managers & Certification Regime.*

235. The results of the monitoring referred to above should be used to satisfy the subscriber and the LSB that all of the relevant Lending Code requirements in respect of the debts sold are being adhered to. Where instances of noncompliance are identified through monitoring, subscribers must be able to evidence that appropriate action has been taken to remedy any breakdown of control or customer detriment.

Paragraph 236. Where a subscriber agrees to a subsequent sale of the debt, they must satisfy themselves that appropriate arrangements are in place to ensure that following the sale of the debt, the subsequent debt purchaser will continue to deal with customers in a manner that is consistent with the requirements set out in the Code for the treatment of customers in financial difficulties.

- 4. What arrangements were in place at NAB and Cerberus for the treatment of customers in financial difficulties in a way that is consistent with the requirements set out in the code? Has CYBG consistently monitored these outcomes? I should be very surprised if it has as you profess to know so little about these cases.*

## Unanswered Questions

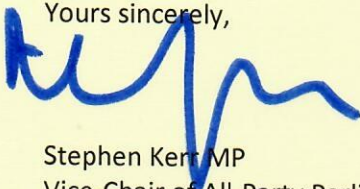
There are also other questions which remain unanswered from Kevin Hollinrake's letter of 8<sup>th</sup> May over fixed-rate Tailored Business Loans. The responses you have given simply repeat the stance taken by Debbie Crosbie and David Thorburn to the Treasury Select Committee in 2014, and they deliberately obfuscate. Your categorisation of, 'variable-rate loans, fixed-rate loans and more complex products that... behaved in a similar manner to IRHPs' implies there were three types of loan. This is misleading because in reality there were only two categories, unhedged (variable) and hedged. The hedged category included fixed-rate loans akin to an IRHP known as a vanilla swap and others akin to other types of IRHPs including collars and structured collars.

This mis-categorisation that CYBG has been insisting upon since 2014 allowed the omission of fixed-rate loans from the previous voluntary review which should have included over 8,000 more loans. Parroting the descriptions of fixed-rate loans as 'easily understood' and 'predictable' deflects from their true nature. Andrew Bailey did indeed state in his letter of 28 January 2019 that fixed-rate TBLs did not have similar product features to vanilla swaps. Unless he knows that CYBG failed to hedge the lending, he is also completely wrong on this point, as any derivatives expert will confirm. It is either hedged with a mark-to-market break cost or it is not and should have had no mark-to-market break cost. It cannot be both.

As you know, the APPG takes an active interest in remediation exercises. We deal with all the major financial institutions in the country, and we have seen the remarkably different approaches taken. Some institutions are able to sensibly sit around the table with their customers, come to an agreement and let their customers move quietly on with their lives, whilst in cases such as those sitting with CYBG, the bank takes an entrenched position and the entire fight is done in public. It is regrettable that the bank is taking this approach, and it does little to bolster confidence that the bank is committed to treating customers fairly and that things really have changed.

I do hope that the bank will reconsider its position.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Stephen Kerr', with a stylized flourish at the end.

Stephen Kerr MP  
Vice-Chair of All-Party Parliamentary Group on Fair Business Banking

