

# Redress Update – The Silent Mugging Continues

## The Basic Numbers

Whilst there remain a very small number of customers awaiting assessment of the sophistication test, of the review population of 29,490, 18,964 were determined to have been non-sophisticated, and therefore party to the review process.

Of these 18,964 customers, 16,246 had category B products (interest rate swaps and vanilla collars) 1,601 had structured collars, and 1,117 had interest rate caps.

Out of the population of 16,246 category B products, 13,625 opted to have their case reviewed, with 613 yet to decide, and 2,008 deciding not to have theirs reviewed.

Of the 13,625 category B products, and 1,117 category C products, a total of 14,742 sales, 13,060 were assessed as being non-compliant sales. 1,134 were assessed as being compliant, and one assumes that most of these compliant sales were sales of an interest rate cap. There now is only 548 cases still awaiting assessment.

Of the non-compliant sales number of 13,060 we should add the 1,601 sales of category A products, the structured collars. Of this total of 14,661 non-compliant sales, 13,736 redress outcomes have been communicated to customers, 579 are yet to be decided, and 346 outcomes have been decided, but not yet communicated.

So, 13,736 offers have been sent out, with a possible 925 still to come.

Of the offers sent out, 6,685 (49%) have been offered a full tear up, 3,858 (28%) have been offered a cap as a replacement product, 2,147 (16%) have been offered a swap or collar as a replacement, and slightly less than 1% have been offered nothing at all.

Of 12,690 customers who have been offered some redress, 6,726 (53%) have accepted their offer, with the remaining 47% still waiting to decide.

## Analysis

Non-compliant sales form 92% of total sales assessed. However, with most interest rate caps likely to have been assessed as complaint, the vast majority of interest rate swaps and collars have been assessed as non-compliant, something approaching 98%.

With almost half due redress receiving a full tear up and a further 28% receiving the next best thing, a cap, it is not clear why almost 16% have been forced to take a replacement product that

is either another swap or a vanilla collar, as those two products have been found to have been largely mis-sold too.

The banks have sold far paid out, or committed to pay out a little over 1 billion pounds in redress payments. With little under half of customers still yet to respond to their offer, the final outcome is likely to be somewhere north of 2 billion pounds. Just how far north it is impossible to say because in the cases with Barclays, the customer does not have the option to accept, and still put in a claim for consequential losses, and because there is not sufficient information yet as to how many of those that have accepted, and those that still have not, plan to put in consequential loss claims.

The banks have collectively made provisions of a little over 3 billion pounds to settle all claims. If basic redress therefore for the 47% who have yet to accept is given, taking the total up from 1 billion to 2 billion, there appears to be approximately 1 billion available and marked for consequential loss claim.

At QA Legal we have written a series of articles about the review process, airing some of our major concerns. These concerns include the substitution of replacement products, which appear in many cases to have been decided in the interests of purely saving money. Why insist otherwise on a replacement product the like of which has been massively mis-sold? Do the banks truly believe that the replacement product would have been appropriate? Had a customer really wanted interest rate protection, the only truly valid product would have been an interest rate cap.

Some of the calculations of break costs of replacement products have been incorrect too, inflated upwards in order to retain maximum profitability on the original sale. How can banks offer redress with one hand, and then take it away with the other, whilst the FCA and the Independent Person looks on? This is another scandal in the brewing.

Finally, early evidence is that the banks intend to treat consequential losses with the same level of disdain that they had when they sold these products in the first place. The level of where the Legal Test bar is placed appears to be very high, and unfathomable, and not at all aligned to true legal principles. This needs to be challenged. It is sad to see the regulator sit by and let this silent mugging happen under its nose. The UK needs a tough regulator; lack of teeth was partly why the Financial Services Authority was disbanded and split into two, the Financial Conduct Authority and the Prudential Conduct Authority. Sadly, early signs that the FCA will apply more muscle are not encouraging.

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