



HOUSE OF COMMONS

LONDON SW1A 0AA

Stephen Jones
CEO
UK Finance
5th Floor, 1 Angel Court
London EC2R 7HJ

31st January 2019

Dear Stephen,

Re: Dispute Resolution Scheme

You will recall that we set out our concerns with regard to the UK Finance proposals to reform dispute resolution between banks and SMEs in our letter to you of 13th December 2018. The APPGs concerns with regard to governance, eligibility and award levels still stand, however, we welcome the Chancellor's letter of 19th January which addresses some of the points we raised.

I have also met last week with the Chair of the Implementation Steering Group, Lewis Shand-Smith and this week with Andrew Bailey. We are grateful for the invitation to join the group. Before I accept, the APPG would appreciate suitable assurances to the points that I raise in this letter.

1. Membership and governance of the Implementation Steering Group

We are comforted by your assurances and those of the Chancellor and Andrew Bailey that the committee will be balanced between banks, business representatives and other stakeholders.

We also very much appreciate your offer of a place on the group for an APPG representative, however, this raises a number of questions. In particular, the APPG and many of the victims we support need to know that the Steering Committee is completely independent and that the Chair is not constrained in any way, for example, decisions regarding the composition of the Group appear to be dictated by UK Finance. This indicates that the role does not have sufficient independence. Please could you clarify and confirm that UK Finance has no influence over the composition and the individuals in the group?

- a) **APPG representatives.** I am the sixth Chair of the APPG and there are scenarios that might mean that I am no longer able to participate (parliamentary business, change of role, general election, etc.), in which case there could be a very unhelpful hiatus in the APPGs contribution. Heather Buchanan has provided much of the drive and continuity of the APPG's outstanding work for four years and has vital knowledge and understanding of the issues. Critically, she has the confidence of the victims and their

representatives, and her exclusion will raise concerns. I would also strongly recommend her participation and membership of the steering committee.

- b) **Other representatives.** As the Chancellor set out *“I would particularly welcome an update for myself and the Economic Secretary on the composition of the Implementation Steering Group, and would emphasise the need for that group to have balanced representation from banks, business representatives and other parties with a keen interest in SME resolution. It is vital that different perspectives are heard during this implementation stage, to ensure that the schemes are regarded as truly robust and independent”*.

Likewise, Andrew Bailey has stated *“In terms of the appropriate dispute resolution model and eligibility criteria for UK Finance’s schemes, our primary concern is that the widest possible range of interested parties are able to have a meaningful say in the development of the model. If the schemes are to help restore trust between banks and their SME customers after a number of serious failings, it seems unlikely this will be achieved if the process is not considered genuinely independent by all stakeholders. I would, therefore, agree that UK Finance needs to take the APPG’s concerns about the independence of the steering group seriously.”*

I understand from the Chair that the FSB, CBI, EEF and the Small Business Commissioner have been invited and have agreed to participate. I would also suggest invitations are extended to Jim Shannon MP, Nikki Turner (SME Alliance) as voting members and to Brian Little and Ian Lightbody (NAB Customer Support Group) as observers. As the CBI has financial institutions as its members, we see them as a body representative of industry. Prior to accepting any positions on the Committee, the APPG will want to be comfortable with the balance of members and representatives. As stated above, we believe that these decisions at should be at the discretion of the Chair, and not UK Finance.

2. Arbitration

We, along with Andrew Bailey, believe that disputes should be resolved by means of arbitration, under the auspices of a body such as the Chartered Institute of Arbitrators, which has an obligation to act in the public interest. We will provide further details under separate cover.

3. Award Limits

As you know, we have expressed concern about the maximum award limits. We are, however, encouraged by the direction from the Chancellor but would like to understand more how any appeal mechanism would operate should a bank not to adopt the default position of paying the amount specified and propose that there is a reporting system in place so that award levels compared to payments could be tracked.

4. Eligibility

The Chancellor's letter states *"If it transpires that the scheme is not bringing closure to a meaningful number of complaints, and as such is not going to achieve its objective of bringing closure to past complaints, then I would expect there to be further discussion regarding the scope and eligibility for the backward-looking scheme."*

This statement provides clear guidance that the scheme must deliver meaningful outcomes. It is our firm view that the eligibility criteria as it stands will not achieve this. We therefore need assurances that the parameters of the scheme will include discussions to ensure that the overall principle that the Chancellor has set out is adhered to.

The Chancellor's letter to UK Finance clearly states that *"each case that a business seeks to bring to the scheme is considered properly and carefully"*. From our perspective, this places the onus on the steering committee and its chair to look at the eligibility issue from the outset. What we do not want is to have a limited scheme that excludes some cases and then have to fight later for further inclusion. For example, Andrew Bailey, confirmed to us in a letter of 28th January regarding Clydesdale Bank Tailored Business Loans (TBLs) that *"since TBLs have not been covered in the same way as IRHP, there is a case for including remaining disputes in the review of past cases"*. We also believe that schemes such as the Lloyds Bank Griggs Review should be included but are willing to proceed on the basis that these are discussions to be undertaken by the steering committee.

Andrew Bailey also agrees with our view that the scheme should provide redress for events that took place from 1st January 2000 onwards. I hope you agree that the ISG should determine what constitutes an 'event'.

I look forward to hearing from you.

Kind regards,



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

Cc:

John Glen MP, Economic Secretary to the Treasury
Andrew Bailey, Chief Executive, Financial Conduct Authority
Lewis Shand-Smith, Chair, Implementation Steering Group

