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Our Ref: 170109A

Your Ref: Slat009/502

Dear Mr. Clegg

Re: Mr David Slater

Thank you for your letter of 5 January on behalf of your constituent, Mr David Slater. Mr Slater wrote to you about *Parliamentary Early Day Motion 598 Clydesdale Bank Refinancing Practices*.

In addressing Mr Slater's concerns, it will be helpful to confirm our understanding that the Early Day Motion refers to two distinct products that were sold by banks to small businesses: interest rate hedging products (IRHPs), and fixed rate commercial loans. As we explain, this distinction is relevant in the context of our regulatory remit.

Interest rate hedging products

In 2012, we identified failings in the way that some banks sold structured collars, swaps, simple collars and cap products (which we collectively refer to as IRHPs) to small businesses. These products were sold separately to the businesses' lending arrangements. The banks involved, including Clydesdale Bank, agreed to review their sales of IRHPs since 2001, with every case overseen by independent reviewers.

The banks have now completed their reviews of IRHP sales. Decisions were overwhelmingly in favour of customers with 91% of cases assessed as non-compliant, and of these, 80% of redress offers were full refunds or near full refunds where the redress offer replaced the IRHP with a simple cap. Around 95% of cash redress offers have been accepted by customers in full and final settlement of their claims and £2.2 billion has been paid out. The fairness of the process appears to be confirmed by comparative data in relation to cases that have been assessed both by the Financial Ombudsman Service and the IRHP review.

Nevertheless, we agree that it is important to review and learn the lessons from all major redress schemes that we put in place, and I can confirm that we will carry out such an exercise once relevant legal proceedings in relation to the scheme have been concluded.

Fixed rate commercial loans

Fixed rate commercial loans, sometimes referred to as 'tailored business loans', have similar characteristics to IRHPs. However, as confirmed by independent legal advice obtained by the Treasury Committee, commercial lending is not regulated, and the FCA's rules and principles do not apply to the sale of fixed rate commercial loans.

For this reason, the FCA cannot require the banks to set up a redress scheme for such products. It would be for Parliament to decide whether the FCA's remit should be extended to cover these loans. However, even in the event that our remit was extended, we could not take action retrospectively.

As you may be aware, Clydesdale Bank has been carrying out a separate, voluntary review of certain types of commercial loans that it sold. For the reasons set out above, we would generally not be in a position to examine their voluntary redress scheme, as called for by the *Early Day Motion*.

However, we take an interest in the bank's voluntary review and would consider acting if, for example, we saw evidence of conduct that spoke to the fitness and properness of the bank as a whole. Whilst we are aware that some customers disagree with their redress offers, which is unfortunately inevitable in any dispute resolution process, we have not seen any evidence which would warrant regulatory intervention by the FCA.

I hope this helps to clarify the position for both you and Mr Slater.

Yours sincerely

A handwritten signature in black ink, appearing to read 'John Griffith-Jones', written in a cursive style.

John Griffith-Jones
Chairman