

Update on independent review of Royal Bank of Scotland's treatment of business customers in financial difficulty



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The Financial Conduct Authority (FCA) has appointed Promontory Financial Group and Mazars to conduct an independent skilled persons report under section 166 of the Financial Services and Markets Act (FSMA) 2000.

The report will examine Royal Bank of Scotland's (RBS) treatment of business customers in financial difficulty and consider allegations of poor practice set out in the report by Dr Lawrence Tomlinson and referenced in Sir Andrew Large's report.

The first stage of the review will consider RBS' treatment of a sample of customers referred to its Global Restructuring Group. This will include some cases where customers have already raised concerns with Dr Tomlinson, the Department of Business, Innovation and Skills or the FCA.

The review will also consider whether any poor practices identified are widespread and systematic. If this is the case, the second stage of the review will identify the root cause of these issues and make recommendations to address any shortcomings identified.

Due to the complex nature of the review and the seriousness of the allegations, we expect that the skilled person will be reporting the review outcomes by the end of 2015. Whilst commercial lending is not a regulated activity under FSMA, if the findings reveal issues which come within the FCA's remit, the FCA will consider further regulatory measures.

Update December 2015

The FCA has indicated that an announcement about the review conclusions would be made by the end of 2015. The work is ongoing and good progress has been made, and all parties remain keen to complete this complex review quickly. An announcement will be made as soon as possible in 2016.

Frequently asked questions

Q1: On what basis has the independent reviewer been appointed?

Answer:

The independent reviewer has been appointed by the FCA using its powers in section 166 of the Financial Services and Markets Act 2000.

Q2: How has the FCA sought comfort that the independent reviewer is free from conflict / truly independent?

Answer:

We have satisfied ourselves that the independent reviewer has demonstrated to us that it can properly manage any conflicts of interest relating to RBS.

Q3: Will the independent reviewer seek to engage with Dr Tomlinson? How will you ensure that this engagement is adequate?

Answer:

The independent reviewer will engage with Dr Tomlinson to fully understand the allegations contained in his report.

Q4: How does the FCA's independent review differ from the RBS's Clifford Chance review?

Answer:

RBS instructed law firm Clifford Chance to conduct a review of the principal allegation in the Tomlinson Report – that RBS, through its Global Restructuring Group, was culpable of "systematic and institutional" behaviour in artificially distressing otherwise viable businesses. The report was published in April 2014. The Clifford Chance review is separate from the independent review commissioned by the FCA, which will consider a broader range of allegations made in the Tomlinson Report.

Q5: What further regulatory action will the FCA take?

Answer:

Once we have received the review findings we will consider whether further regulatory measures are required in relation to any issues falling within our remit.

Q6: Will all customers who have contacted Dr Tomlinson be reviewed?

Answer:

No. The information provided to Dr Tomlinson will be provided to the FCA's independent reviewer (section166@mazars.co.uk) to provide context for the review. As the allegations are that the practices were widespread and/or systematic, the independent reviewer will look at the treatment of a range of customers including customers who are dissatisfied with their treatment.

Q7: How many customers will be included in the sample for the FCA's independent review? How will they be chosen?

Answer:

The methodology will include experiences of a range of RBS customers in financial distress referred to its Global Restructuring Group.

Q8: Should customers who think they might be affected get in touch with the FCA?

Answer:

Information provided to the FCA, Dr Tomlinson and the Department of Business, Innovation and Skills will be made available to the FCA's independent reviewer for consideration. Whilst this information will be considered as context for the review, we cannot guarantee these cases will be included in the sample for detailed consideration. This is because we have asked the independent reviewer to consider RBS' treatment of a sample of customers referred to its Global Restructuring Group. This is expected to be a representative sample of customer experiences, good and bad. The review is not a past business review, so for instance it will not determine whether customer remediation on individual cases is appropriate.

Q9: What should I do if I have concerns about my treatment by RBS Global Restructuring Group?

Answer:

Whilst customers can provide information to the FCA and its independent reviewer for context, this review will not determine whether customer remediation on individual cases is appropriate. If customers have concerns about their treatment by RBS they should raise a complaint through the normal complaint process – which in the first instance is to register their concerns with RBS.