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UK court paves way for small firms to appeal 'hedging' compensation

LONDON | BY MATT SCUFFHAM



The logo of the new Financial Conduct Authority (FCA) is seen at the agency's headquarters in the Canary Wharf business district of London April 1, 2013
REUTERS/CHRIS HELGREN

A British court ruling could pave the way for thousands of small firms mis-sold complex financial products by their banks and unhappy with an official compensation scheme to sue for redress.

The Financial Conduct Authority (FCA) had set up a compensation scheme in 2012 having reached agreement with banks including Barclays, HSBC, Lloyds Banking Group and Royal Bank of Scotland for them to review thousands of cases for possible mis-selling.

But many firms unhappy with the FCA's scheme had been unable to appeal through the courts because they had passed a six-year time limit while taking part in the review.

The latest ruling involved a holiday park operator called Suremime, which alleged it was mis-sold an interest rate hedging product by Barclays in 2008. Barclays made an offer of compensation through the FCA's scheme which Suremime says is inadequate.

Products such as those bought by Suremime were meant to protect smaller companies against rising interest rates, but when rates fell the companies had to pay extra charges, typically running to tens of thousands of pounds. They also faced hefty penalties to extricate themselves from the deals, which most said they were not aware of.

Thursday's High Court decision by Judge Havelock-Allan enables Suremime to amend its case to include allegations that Barclays was negligent in its conduct of the review and in its decision to review redress and it is entitled to compensation as a result. Barclays declined to comment.

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"The existence of a right to sue for the negligent implementation of the review would be particularly important for those customers," said Janine Alexander, a partner in Collyer Bristow's Banking and Financial Disputes team.

Thursday's decision could leave banks, which have so far paid out less than 2 billion pounds (\$3.1 billion) to affected customers, with a much higher compensation bill.

"It does give a new lease of life to a lot of small firms seeking compensation. There's no shortage of businesses that are unhappy with the review process," said Abhishek Sachdev, managing director of Vedanta Hedging, which advises on hedging.

The FCA's compensation scheme was criticized by many small firms which complained that their compensation was inadequate or that they were offered alternative hedging products they didn't want or excluded from the process altogether on technicalities.

In a separate case, nursing home operator Holmcroft Properties was granted permission to apply for a judicial review of the scheme in April.

(Editing by [David Holmes](#))



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