My big mistake: I listened to a smiling banker

Company owners are still fighting lenders over mis-sold interest-rate swaps. **Kiki Loizou** reports

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Lee Campbell's business went under after a 'swap' deal left him paying fees of £40,000 a month (MARK PINDER)

A slick presentation by a smiling, suited banker convinced Lee Campbell he was being offered a great deal. The bar owner had been called in by Barclays for an explanation of how the mandatory interest rate hedging product attached to his loan was going to save him from paying huge charges if interest rates rose. The meeting left him with a feeling of comfort and security.

The deal was presented as something that would smooth out any fluctuations in interest rates and stabilise his loan repayments.

Campbell now describes trusting a slideshow presented by a bank salesman as the biggest mistake of his business career. When interest rates sank to record lows during the financial crash, the hedging deal left him paying bank fees of more than £40,000 each month, charges that eventually forced his business into administration in 2011. “It was the worst moment of my life,” he said, “absolutely horrendous.”

“We were told it was there to protect us. We trusted the bank,” said Campbell, whose firm Actual Leisure had four sites in South Shields, near Newcastle, when the founder took out a £3.5m loan in 2007. He planned to expand his business from four bars to ten. “They never mentioned the down side,” he said.

Barclays has now admitted it mis-sold the so-called swap deal and, in a letter to Campbell last year, said: “The bank has concluded that, but for the interest rate hedging product, the company would not have entered administration”. It offered £2.7m in compensation though it added that, should he accept the offer, it would keep £2.2m of this to cover fees. Campbell plans to appeal further using an independent specialist. “You’d think it was some sort of back-street organisation doing this,” he said.

Barclays said: “We are sorry for the mistakes we made in the sale of the interest rate hedging product to Actual Leisure and we have provided a fair and reasonable offer of redress to the company to put this right in line with the requirements of the FCA review.”

The redress scheme, through which banks are meant to pay back victims of mis-sold swaps, was set up in 2012 when the Financial Conduct Authority (FCA) realised the scale of the scandal.

It reviewed products sold by nine banks to 30,000 firms but excluded 10,000 from receiving compensation because it deemed them to be “sophisticated” — of a certain size and able to understand the deals. The probe has been labelled a failure by many industry players and small companies. The FCA said: “Every case, from start to finish and including decisions on consequential losses, is overseen by an independent reviewer.”

So far it has paid out £2bn in compensation to 13,200 customers, of which £450m was for consequential losses (damages incurred beyond the direct losses caused by the swap).

Many who have received compensation offers feel they do not match the damage caused by the products. Despite this, last week the FCA claimed its work was almost done: “All nine banks have now completed their sales reviews and delivered redress letters to all but a handful of these customers,” the regulator said in its quarterly update, adding: “The banks expect to deal with all remaining cases, including claims for consequential losses and customers who have challenged their redress offers.”

This process is already under way. Last Monday, Holmcroft, an Isle of Man property company, was granted permission to apply for a judicial review of Barclays’ compensation scheme. It was awarded £500,000 when the bank agreed it had mis-sold it a swap. But the company insists it has been forced to sell properties as a result of the hedging product and should get more compensation. The hearing raised hopes that, should Holmcroft win, others will be able to fight for more compensation.

Experts are sceptical. “All that stuff is great for headlines but the reality is it is extremely unlikely there will be any change or improvement to the review scheme,” said Abhishek Sachdev at the adviser Vedanta Hedging. “The scheme has failed to deal with consequential losses properly. If it was done right, I think banks would pay out about £20bn. Will this judicial review take them to that number? No, because I believe there is zero appetite in the FCA and the Treasury to do that.

“The huge cases are being settled out of court and kept quiet. The banks are letting the weak cases led by bad advisers go to court and they are winning them. It’s getting harder and more expensive to fight.”

The losses have not been all financial, claimed Sachdev: “There are cases where some people have committed suicide because of this,” he said.

The only hope is a rise in so-called litigation funding, in which law firms cash in on the banks’ mis-selling by agreeing to represent those seeking further redress, in return for a cut of the damages if they win.

"The massive damages is a goldmine for these funders," said Jeremy Roe of lobby group Bully Banks. He said there are now at least a dozen funders who focus on cases of mis-sold swaps. "The FCA has failed and as a result people are starting to look at other solutions."

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