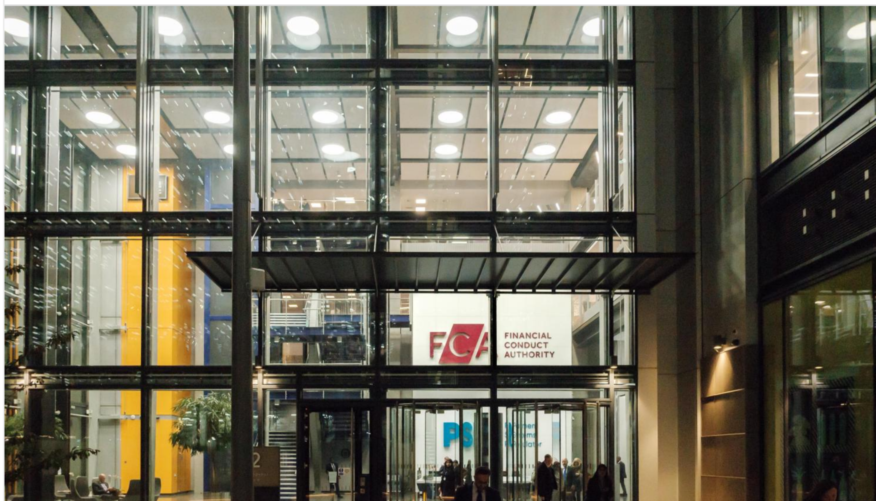

The Financial Conduct Authority excluded a third of the victims of mis-sold interest rate swaps from a compensation scheme after pressure from the Treasury

ALAMY

Regulator 'saved banks billions' in loan scandal

James Hurley

Monday December 04 2023, 12.01am, The Times

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The City regulator has been accused of vastly underestimating how much it saved banks when it cut thousands of companies out of a compensation scheme for a lending scandal.

The Financial Conduct Authority has published its calculation for the "uncompensated losses" faced by businesses mis-sold interest rate swaps by banks, putting the figure at "anywhere between £200 million and £3 billion".

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unrealistic" and said the true saving for lenders was likely to have been in the tens of billions of pounds.

Small and medium-sized companies were paid £2.2 billion in redress after the regulator found widespread mis-selling of swaps. Sold as "protection" against the risk of rising interest rates, swaps left thousands of businesses with disastrously high costs when rates fell, wrecking many livelihoods.

In 2021, an independent review by John Swift KC found that the regulator had been wrong to exclude one in three mis-selling victims from compensation via the "last-minute" introduction of an eligibility cap.

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The FCA's estimate of uncompensated losses arising from the eligibility cap appears in its defence in judicial review proceedings, in which an all-party parliamentary group is challenging the authority's decision not to accept Swift's finding.

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could be that low."

Abhishek Sachdev, chief executive of Vedanta Hedging, a financial advisory service that has worked on hundreds of legal cases involving swaps, said: "The estimate the FCA have provided is completely unrealistic." Sachdev, who advised the regulator on the redress scheme, said his own "conservative" analysis suggested the uncompensated losses were closer to £40 billion. He said he believed this was "the real reason the FCA can't take this any further".

The authority says it decided against ordering further compensation for several reasons, including "legal and practical impediments" to action; that it felt an "appropriate degree of protection" had already been provided; and that banks considered the matter closed.

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The sophistication test was introduced after the Treasury pressured the FCA to reduce the costs of compensation amid fears that the redress bill was too high. This was after "intense" lobbying from bank bosses. However, Swift concluded that the redress scheme remained under the control of the regulator, despite Treasury attempts to influence it.

Swift was not given the FCA's estimate while compiling his report. In March 2022, after the publication of his review, Swift told MPs on the Treasury select committee that he would need a "crystal ball" to produce such an estimate and the FCA "is not going to provide that figure".

The regulator indicated that the estimate had been produced in 2021 after Swift provided provisional findings and was not intended for his review. It is understood to view the estimate as imprecise and to be based on several significant assumptions.

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require the banks to provide redress to those excluded from the original scheme. As part of this, we produced a broad estimate of possible losses based on several significant assumptions. Our defence to the judicial review sets out clearly the reasons we decided not to seek further redress."

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