Ulster Bank Fixed Rate Loans

May 2022

Basic Fact Pattern

- Ulster Bank Limited originated a cohort of fixed rate loans in 2007 and 2008
- Uniquely the customer facility letters also stated that the borrower had entered into a swap facility linked to the fixed rate loan and marked an initial credit line
- The swap facility includes the phrase ‘any breakage costs arising as a result of the termination by the Borrower either before or after the execution of such an agreement shall be for the account of the Borrower’
- The cost of funds for the fixed rate loan was advised and from the examples seen to date an undisclosed hidden margin of just over 50bps was added to the market swap rate
- Some customer facility letters include a poorly worded mark to market type charge for early repayment whereas others mention no such charge

Main Issues

- The fundamental problem is that the customer does not need a pay fixed rate swap to hedge a fixed rate loan. It would be doubling the risk not hedging it. In contrast the bank might need just such a swap to hedge its interest rate risk to its own internal trading desk
- The issue for the bank in doing the right thing i.e. booking an intra group swap, is that IAS 39 (the prevailing accounting standard at the time) would require the bank to consolidate the swap out to zero
- So, the bank instead booked the bank's significant day 1 profit, arising from the loading on the derivative, as a liability against the customer. This customer liability and the potential future exposure were marked as a credit line
- This accounting was fraudulent as there never was a legal swap contract between the customer and the bank and no such liability or credit line should have been booked against the customer. Yet we have clear documentary evidence that as interest rates fell both the liability and the credit line increased. In the example attached a credit line of £50,000 on the 28 January 2008 had increased to £267,000 by the 23 December 2009
- Sustained failure within UBG by finance , risk, internal audit and external audit to uncover this accounting fraud for a number of years

Impact on Customers

- The initial impact on the customer was to increase the liabilities and credit lines marked against their name. This was treated by the credit department as a worsening of the LTV lending covenants and resulted in many customers getting pushed into Recoveries
- It is very difficult from an outside perspective to know when UBG realised they had this major problem on their hands but there is some evidence this was during 2012, probably caused by the work going on to decide which customers would be able to enter the IRHP redress scheme that the FSA had agreed with 9 of the major banks
- Ulster Bank FRLs were excluded on the basis they were fixed rate loans rather than floating rate loans with stand-alone derivatives. Yet a cursory glance of the facility letters would have revealed that something more serious than mis-selling was going on
- So, what did Ulster Bank do when they discovered their error? Did they cancel the credit line and reverse the liability and apologise to the customer? No, they told the customer that they had incurred a breakage costs of £119,521.50 and debited it to the loan. There was absolutely no legal basis for this charge, which is tantamount to theft

What we would like to see next?

- The most important issue is to get some justice for this cohort of customers, many of whom have lost their livelihoods, some committing suicide, because of the bank's sustained abusive behaviour
- We would thus like to see the FCA use its powers to impose a redress scheme on NatWest Group for the customers harmed by Ulster Bank over the last 14 years. This scheme to allow for both actual and consequential loss where appropriate
- We would like the PRA to investigate both the original decision to book false profits for these cohorts of FRLs, as it goes to the heart of integrity in the UK banking system, and the subsequent decision to charge breakage costs against individual customers when there was no legal or accounting basis for that
- If UBG has already communicated these serious failures to either the PRA and/or the FCA we would like to know what action has been taken to date?