Ian Tyler, a former banker and an expert in derivatives, says what went on at Ulster Bank and NatWest points to an "appalling accounting fraud"

SIMON JACOBS FOR THE TIMES

INTERVIEW

NatWest fixed-rate loan scheme for companies 'effectively theft'

The bank's Northern Ireland subsidiary has been accused of 'outrageous' behaviour

James Hurley

Tuesday August 15 2023, 12.01am, The Times

Share Save

Having spent more than three decades in the City, including a brief period in charge of Royal Bank of Scotland's balance sheet as its survival hung in the balance in 2008, Ian Tyler could be forgiven for thinking he'd seen it all. Then an initially

PREVIOUS ARTICLE NEXT ARTICLE

"One of the worst control failures I've ever seen" and "effectively theft" is how the former RBS, Tesco Bank and Barclays banker describes what he claims the paperwork has revealed.

In recent months, Tyler, 60, also a former Deloitte and Alvarez & Marsal executive, has been following a paper trial that he claims points to an "appalling accounting fraud" at his former employer, now called NatWest, as well as an alleged customer "abuse" scandal that he fears may have damaged scores of livelihoods.

Tyler alleges that Ulster Bank, the Northern Irish division of NatWest, abused small and medium-sized companies in the province as well as across the border in the Republic of Ireland by arranging fixed-rate loans that had hidden, and potentially disastrous, characteristics.

The issue boils down to allegations that Ulster Bank secretly lodged huge additional liabilities against customers' names without their knowledge and, when it looked as though this might emerge, its parent RBS broke the contracts and moved the borrowers into its notorious Global Restructuring Group.

ADVERTISEMENT

PREVIOUS ARTICLE NEXT ARTICLE

Tyler, a specialist in bank finances who worked at RBS for 14 years, and other experts met senior staff at the Financial Conduct Authority last November to present their findings. What they see as the apparent inaction that has followed has prompted Tyler, now a board adviser to various companies, to go public.

“I’m really, really shocked and I’ve worked in banks most of my life, so I don’t say that lightly,” Tyler said. “It’s an outrageous fact pattern.”

Ulster Bank is acccused of giving customers a hidden credit risk they were not told about

ALAMY

The saga began when Steve Middleton, 57, a financial adviser and regulatory consultant who has been investigating the affair, asked Tyler to look at paperwork linked to an Ulster Bank fixed-rate loan of nearly £780,000 granted to a Northern Irish publican. The documents suggested the loan had a form of derivative, or “swap”, attached to it. This piqued the interest of Tyler, an expert in derivatives. “It took me about 30 seconds to

rate of interest to receive back payments based on an interest rate “floating” above an index linked to the Bank of England base rate, for example. Such arrangements are used to hedge against, or to speculate on, changes in interest rates.

For the customer, having a fixed-rate loan with a swap embedded in it is counter-intuitive. “If you have taken a fixed-rate loan, you should not be involved in a derivative,” Tyler, who has executed “hundreds of billions” of pounds’ worth of swaps, said. “The fixed rate is your hedge, so the swap is doubling the risk, not hedging it.”

Swaps come with a calculation of “potential future exposure” for which a counterparty could be on the hook if interest rates move against them. The sum is essentially how much would be owed if the contract was torn up, plus an amount to account for future volatility, for example if rates change significantly.

Tyler claims that documents show Ulster Bank secretly lodged “hidden credit lines” against certain fixed-rate loan borrowers to account for these costs. In effect, this amounts to a huge additional potential liability against customers’ names that they were never told about, Tyler and Middleton argue.

The pair allege that far from being “notional”, as lenders

PREVIOUS ARTICLE NEXT ARTICLE

increased risk of insolvency and damage to livelihoods.

ADVERTISEMENT

According to Middleton: "It's a hidden credit risk the customer wasn't told about. It can be anywhere from 10 per cent to 70 per cent of your loan value. How can you secretly subject small companies to that level of risk?"

As rates fell after the financial crisis, the hidden swaps allegedly led to Ulster Bank customers being unknowingly saddled with enormous and growing liabilities against their name.

The motivation was profit, Tyler claims. "With the swap, you book a profit on day one. On a conventional loan, you would have to wait years to make the money. There shouldn't have been a day one profit on a fixed-rate loan."

The lender could have legitimately taken out an internal hedging arrangement against the loans, but since accounting standards meant Ulster could not do this and still make commission, it secretly lodged it against customers instead, Tyler alleges. "The customer wasn't a counterparty to any proper contract, so these credit lines were fraudulent. As there

PREVIOUS ARTICLE NEXT ARTICLE

A spokesman for NatWest declined to answer a series of questions about the fixed-rate loans, including Tyler's allegations that upfront commissions were booked. The bank indicated regret that references to swaps were made in "poorly drafted" borrowers' documentation, but claims these were in error and that any associated hedging was within the bank — meaning that no derivative liabilities were lodged against customers.

Tyler responded by saying: "It wasn't just erroneous paperwork. We have hard evidence that the bank also booked the liability from the interest-rate swap and the full credit line against the customer. There is no accounting, regulatory or legal basis for booking credit lines against a customer for exposure on an intra-group swap."

When pressed on Tyler's allegations that swap liabilities should not be appearing against customer names, the bank again declined to comment.

ADVERTISEMENT

PREVIOUS ARTICLE NEXT ARTICLE

penalty. Borrowers were transferred en masse to GRG.

"What did RBS do when they discovered the problem? Did they cancel the credit lines, reverse the liability, send an apology? No," Tyler claimed, "they simply debited a breakage cost to the loans."

Middleton claims that he has seen several examples of such arrangements, but it is not known how many customers are affected. The FCA said in an official report that there was a "bulk transfer" of about 300 Ulster Bank "problem case" borrowers to GRG in 2011 and that such customers were "not adequately informed" about why they had been moved. GRG was found by an official review to have "systematically" mistreated thousands of companies and to have caused "material financial distress".

"Customers were driven into GRG for facilities that were put in place via fraud. It really is awful," Tyler said.

A spokesman for NatWest said: "We entirely reject all allegations that Ulster Bank, or any NatWest company, engaged in criminal fraud in relation to the sale of fixed-rate loans."

Behind the story

High street banks paid out £2.2 billion in compensation after they were found to have mis-sold interest rate swaps on an industrial scale in the run-up to the financial crisis (James Hurley writes).

Ulster Bank borrowers with fixed-rate loans whose documentation suggested they had a swap were excluded from this compensation scheme. The Financial Conduct Authority is under pressure to explain why.

PREVIOUS ARTICLE NEXT ARTICLE

In response to a freedom of information request by Steve Middleton, a financial adviser, asking whether the FCA had sought "specialist advice" on these Ulster borrowers, the regulator said it had "obtained legal advice on whether fixed-rate loan products or similar fell within our regulatory remit". When Middleton challenged this, the FCA admitted its response "could have been clearer and may have led to an inaccurate impression" since the FCA did not in fact "seek specific advice on Ulster Bank products".

However, correspondence seen by The Times shows an Ulster Bank employee claiming that RBS had considered the loans as part of Project Rosetta, the group's internal review of swaps mis-selling. The bank declined to comment on this.

Ian Tyler, a banking expert, said: "It's incredible the FCA has taken no action. This is not mis-selling, it's much worse."

The FCA declined to comment.

Related articles

Business

Fraud claim levelled against NatWest over Northern Ireland loans

August 15 2023, 12.01am

James Hurley

Today's business

Mediterranean heatwave to add billions to cost of Britain's food

August 15 2023, 12.01am

Jack Barnett

COMMENT

Loosening competition rules is no cure for problems in the economy

August 15 2023, 12.01am

Patrick Hosking

PREVIOUS ARTICLE NEXT ARTICLE