

Was the Customer sold a derivative which is separate to a lending arrangement and is for the purpose of managing interest rate fluctuations i.e. a standalone Interest Rate Hedging Product?

No

Sale of product is not within the review.

Yes

Was the Interest Rate Hedging Product sold to the customer on or after 1 December 2001?

No

Sale of product is not within the review.

Yes

If the Customer purchased product on or before 31 October 2007: Was the Customer classified as a 'private customer' at the time of the sale?  
If the Customer purchased product on or after 1 November 2007: Was the Customer classified as a 'retail client' at the time of the sale?

No

Customer will not be included in this review

NOTE: Where the sale of an IRHP is not included within the review because the customer is deemed 'sophisticated' for the purposes of the 'sophistication test' set out above, the customer may wish to consider complaining to its bank, and may also be eligible to refer the complaint to the Financial Ombudsman Service and may wish to consider seeking independent legal advice.

'Sophistication test': Customers classified as 'sophisticated' under any element of the sophistication test will be ineligible for the review and redress exercise.

Yes

The definitions of 'private customer' and 'retail client' should be construed in accordance with the FSA rules and guidance in force at the time, and the definition of a 'retail client' is also derived from European legislation. 'Private customers' and 'retail clients' are the customers afforded the greatest level of protection under the FSA's rules.

At the time of the sale, and irrespective of the size of the business, did the Customer have the necessary experience and knowledge to understand the service to be provided and the type of product or transaction envisaged, including its complexity and the risks involved?

Yes

Sophisticated

No

Is the Customer part of a Companies Act group?

A Customer is deemed part of a Companies Act group if it meets the Companies Act definition of a group (see sections 474(1), 1161 and 1162 of, and Schedule 7 to, the Companies Act 2006). Under the Companies Act 2006 a 'group' is defined as a parent undertaking and its subsidiary undertakings. An undertaking is a 'parent undertaking' in relation to a 'subsidiary undertaking' if it falls within one of the following categories:

- it holds a majority of the voting rights in it;
- it is a member of it and has the right to appoint or remove a majority of its board;
- it has the right to exercise dominant influence over it by virtue of provisions contained in the subsidiary undertaking's articles or in a control contract;
- it is a member of it and controls alone, under an agreement with other shareholders or members, a majority of its voting rights; or
- it has the power to exercise, or actually exercises, dominant influence or control over it, or both of them are managed on a unified basis.

Yes

Assess the Customer's Companies Act group against Companies Act thresholds for a small group.

For these purposes the Companies Act thresholds for small groups are as follows:

- Aggregate turnover of more than £6.5 million net (or £7.8 million gross); or
- Aggregate balance sheet total of more than £3.26 million net (or £3.9 million gross); or
- More than 50 employees.

These thresholds are calculated in accordance with section 383 Companies Act 2006 (as amended).  
NB For each threshold, information from the financial year in which the sale was concluded is used.

Group meets:  
1. All three thresholds; or  
2. Turnover & balance sheet thresholds; or  
3. Turnover & employees thresholds

Group meets:  
1. None of the thresholds; or  
2. One of the thresholds; or  
3. Balance sheet & employees thresholds only  
OR:  
Insufficient information to determine whether or not group meets the test

Sophisticated

No

Assess the Customer against Companies Act thresholds for a small company.

Where the Customer entity does not belong to a Companies Act group, the thresholds in this test are applied to the individual Customer entity, whether it is a company, partnership, limited partnership, LLP, etc.

For these purposes, the Companies Act thresholds for small companies are as follows:

- Turnover of more than £6.5 million; or
- Balance sheet total of more than £3.26 million; or
- More than 50 employees.

These thresholds are calculated in accordance with section 382 Companies Act 2006 (as amended).  
NB For each threshold, information from the financial year in which the sale was concluded is used.

Customer meets:  
1. None of the thresholds; or  
2. One of the thresholds; or  
3. Balance sheet & employees thresholds only  
OR:  
Insufficient information to determine whether or not Customer meets the test

Customer meets:  
1. All three thresholds; or  
2. Turnover & balance sheet thresholds; or  
3. Turnover & employees thresholds

Sophisticated

Is Customer part of a group of connected clients?

A group of connected clients is one of the following (taken from the BIPRU definition of groups of connected clients):

1. Two or more persons who, unless it is shown otherwise constitute a single risk because one of them, directly or indirectly, has control over the other or others; or
2. Two or more persons between who there is no relationship of control as set out in 1) but who are regarded as constituting a single risk because they are so interconnected that, if one of them were to experience financial problems, the other or all of the others would be likely to encounter funding or repayment difficulties.

NB For the purpose of our sophistication test, 'control' means control as defined in Article 1 of the Seventh Council Directive 83/349/EEC (the Seventh Company Law Directive) or a similar relationship between any person and an undertaking.

Yes

No

Aggregate the notional value of all live (i.e. not matured) IRHPs across the group of connected clients immediately after the particular sale being assessed was entered into

Aggregate the notional value of all live (i.e. not matured) IRHPs held by the Customer/Customer's Companies Act group immediately after the particular sale being assessed was entered into

Does the Customer/Customer's Companies Act group/group of connected clients (as determined in accordance with the above) hold IRHPs with an aggregate notional value immediately after the particular sale was entered into of more than £10 million?

Yes

No

Sophisticated

Non-sophisticated

NOTE: Customers eligible for the review may have to take further action to have their case reviewed, depending on the product which they have purchased. For further information, please contact your bank or see the FSA website at [www.fsa.gov.uk/interest-rate-swaps](http://www.fsa.gov.uk/interest-rate-swaps).