



**PARTICIPATING IN A LEGAL GROUP ACTION AGAINST
CLYDESDALE BANK PLC (INCLUDING YORKSHIRE BANK)
AND NATIONAL AUSTRALIA BANK
AN OPPORTUNITY FOR RESOLUTION**

2018



WELCOME

Thank you for your enquiry about our services relating to a legal group action against Clydesdale Bank Plc (including Yorkshire Bank) and the National Australia Bank.

If you have ever tried to deal directly with Clydesdale or Yorkshire Bank about the mis-selling of a business loan, you may have hit a brick wall at some point. Unfair time-barring, rejection of your complaint or low offers of redress are all too common outcomes. For those that have contemplated taking Clydesdale Bank to court, you may have become overwhelmed with the daunting prospect of litigation. Lawyers' fees are expensive and can quickly mount up, especially when faced with a bank that has lots of experience in litigation. There are also adverse costs to potentially pay if you lose the case. After the event insurance may be available, but the premiums for these policies can be very high. However, there is another way.

A group action can help address the imbalance between a global banking corporation and a small or medium sized business. Clubbing together with other claimants that are faced with similar problems can be an effective way to level the legal playing field. In fact, a group action may be the only way of securing proper access to justice.

In this regard, allSquare have teamed up with RGL Management to provide businesses with the access to justice that is so badly needed.

Daniel Hall
Managing Director
allSquare





IDENTIFYING THE PROBLEM

Clydesdale Bank and Yorkshire Bank have been involved in the selling of certain types of business loan called Tailored Business Loans (TBLs). It is thought that about 12,000 TBLs were sold to businesses across the UK between 2000 and 2012. Many of these TBLs were unsuitable for businesses as the loan allegedly included large termination costs (or break costs) that were not properly explained by the bank when they were sold. Furthermore, businesses were unable to benefit from falls in the Bank of England Base Rate that occurred in 2008 as they were effectively trapped in the TBL and forced to pay higher fixed rates of interest. Rather than helping to stimulate the UK economy back to growth after the Global Financial Crisis, the fall in interest rates just helped to line the pockets of the bank.

Many businesses have already complained to Clydesdale and Yorkshire Bank about the way the TBL was sold to try and recoup some of their losses. However, from our experience of dealing with Clydesdale Bank, the outcome of the investigation of the complaint was not always satisfactory. Some typical outcomes include:

- The complaint was 'time-barred' so the bank did not even investigate the complaint in the first instance
- The complaint was investigated and determined to have been "not mis-sold"

- An alternative fixed rate loan of 5 years was included in the redress - substantially decreasing the amount of cash redress provided
- Claims for any consequential losses were rejected or only a small amount was offered

If you were unhappy with the outcome of your complaint, you may have tried to take your case to the Financial Ombudsman Service (FOS). Again, you may have experienced unsatisfactory results, such as:

- Your business was not eligible for FOS to look into the complaint as it is not a 'micro-enterprise'
- FOS did look into your complaint but agreed with the banks' decision
- FOS offered you an amount of compensation which was not the full amount (typically a 5 years fixed rate loan as a replacement product)
- FOS did not entertain a consequential loss claim
- The maximum award provided by FOS was limited to £150,000 which was inadequate for your case

However, rather than pursuing a 'mis-selling' based complaint; another solution is to pursue the bank under causes of action relating to dishonesty and fraud.





WHAT IS A TAILORED BUSINESS LOAN?

Tailored Business Loans or TBLs, are a particular type of business bank loan which allegedly includes an element of interest rate hedging contained within the loan. TBLs were provided by Clydesdale Bank and Yorkshire Bank.

Because TBLs were structured as commercial loans, they are deemed to be an *unregulated product* and so do not offer the same protections as a regulated investment product would do. This limits the avenues of recourse available to holders of TBLs and makes it more difficult to secure compensation.

DOES THIS GROUP ACTION APPLY TO ME?

By answering a few short questions, you should be able to identify if you are able to join the group action.

- Did you take out a business loan with Clydesdale or Yorkshire Bank between 2000 to 2012?
- Was the business loan called a Tailored Business Loan?
- Was the interest on the loan fixed or structured in some way?
- Did you ever try to break the loan early with the bank or ask about breaking the loan?

If you answer YES to these questions then you potentially have a valid claim and are able to join the group action.

Already Complained?

No Problem. You can still join the group action even if:

- Your complaint has been time-barred
- Your complaint was rejected
- You have already accepted an offer
- Your business has been dissolved





ABOUT THE GROUP ACTION

The group action against Clydesdale Bank Plc (including Yorkshire Bank) and the National Australia Bank centres around its business loan product called a Tailored Business Loan. In the UK, these loans were marketed to thousands of businesses, with particular industry sectors being targeted, such as:

- Property
- Hotels & Leisure
- Farming
- Manufacturing

The losses suffered by business customers of Clydesdale and Yorkshire Bank range from the payment of significant loan break costs to unfair or inflated bank charges to loss of business opportunity.

DISHONESTY AND FRAUD

The group action will pursue damages for all losses incurred. The causes of action to be pleaded include allegations of *dishonesty and fraud*. Even businesses which have already received some sort of compensation payment as part of the bank's own "redress" procedure may be entitled to claim damages as will business' which have been put into liquidation or dissolved.

When putting together a legal group action, there are a number of considerations that need to be taken into account. These include:

Securing Litigation Funding:

Funding is required to pay for lawyers, barristers, After the Event (ATE) insurance premiums, forensic accountants, expert witnesses and other professionals in order to participate in litigation at no cost to the claimants

After the Event Insurance:

This policy will indemnify claimants against adverse costs, so if the group action is lost, then the legal costs payable to the bank will be covered

Consequential Losses:

We will undertake an assessment for consequential losses for each claimant and then forensically quantify these when identified





WE

ARE

A large, diverse crowd of people of various ages and ethnicities, all looking forward with serious or determined expressions. The image is overlaid with a purple tint. The text "STRONGER" is centered in the upper half, and "TOGETHER" is centered in the lower half, both in white, bold, sans-serif font.

STRONGER

TOGETHER



HOW DO I JOIN THE GROUP ACTION?

If you are considering joining the group action then you will need to undertake the following steps:

- Confirm that your Clydesdale or Yorkshire Bank business loan is a *Tailored Business Loan* that is either fixed or the interest has been structured in some way. You can do this by contacting the bank and asking for the “TBL reference number”. Alternatively, we are able to approach the bank on your behalf.
- Read, sign and return the Claims Management Agreement and Terms & Conditions.
- We will then review your case and let you know if you are eligible to join the group action.
- If you join the group action, we will need to undertake an assessment of a potential consequential loss claim.

If you are still unsure whether you want to join the group action and require further information, please call **0800 0830 286** or email info@allsquare.co.uk We are also able to conduct visits to the business' premises to explain the group action in further detail.

Registrants to the group action will be contacted when the signed CMA is received, and we will begin to gather essential information about your claim. This will include the gathering of documentary and witness evidence, to enable us to better evaluate your case.

Our legal team will begin working up individual cases and taking certain legal steps with a view to issuing Court proceedings in 2018.

The exact process of how a large number of cases will be dealt with by the Court will not be known until a Judge considers the relevant case management issues.

*As at 1 April 2018.

ABOUT THE CLAIMS MANAGEMENT AGREEMENT (CMA)

When you request a Claim Pack for the group action, we will send you three documents. (1) The Pre-CMA Information, (2) the CMA and (3) the Terms & Conditions.

The CMA formalises the agreement between you and RGL Management and it is needed to engage with the bank on your behalf.

WHY SHOULD I JOIN THE GROUP ACTION?

There are certain advantages for your business to join the group action. These include:

Benefiting from a 'packaged' legal solution to resolve your dispute which includes access to:

- Leading commercial litigation solicitors and counsel
- Litigation funding

- After the Event Insurance
- Assessment of consequential losses by forensic accountants, with potential inclusion into the group action
- No fees payable unless the group action is successful



FAQs

IS THERE A TIME LIMIT ON JOINING THE GROUP ACTION?

We are currently inviting applications from affected businesses to join the group action now. Please check the deadline date contained in your cover letter. If you have not joined the group action by this date then it may not be possible to add you as a claimant to the group action at a later date.

I HAVE ALREADY COMPLAINED, CAN I STILL JOIN THE GROUP ACTION?

Yes. The group action is open to all businesses that have been sold a Tailored Business Loan by Clydesdale Bank or Yorkshire Bank regardless of whether you have previously complained to the bank or the Financial Ombudsman Service.

If you have already accepted an offer from your bank in “full and final” settlement, you may still join the group action as the validity of the banks’ settlement terms may be open to question.

HOW MUCH WILL IT COST ME IF I JOIN THE GROUP ACTION?

The cost of running the claims against the Bank will be substantial, but claimants will not be asked to contribute to the funding of the legal action so we are able to offer the service on the basis that claimants will have to pay nothing unless the claim is successful. In the event that the group action is successful (the Bank settles the action before trial or we receive judgment at trial), then you will receive a 55% share of the successful net outcome.

MY COMPANY HAS BEEN DISSOLVED, CAN I STILL JOIN THE GROUP ACTION?

Yes. We are potentially able to assist companies that have been dissolved or that have entered administration.

As the causes of action will lie with the legal entity, it will be necessary to have the company reinstated in order to pursue the claim. Where it can be demonstrated that the actions of Clydesdale or Yorkshire Bank caused the business to file for bankruptcy, then a significant consequential loss claim may be identified as well as claiming for losses incurred under the Tailored Business Loan.

WILL JOINING THE GROUP ACTION ADVERSELY AFFECT THE RELATIONSHIP WITH CLYDESDALE OR YORKSHIRE BANK?

Some potential claimants unavoidably continue to bank with Clydesdale/Yorkshire Bank and may be concerned about a hostile reaction in response to their inclusion in a group legal action. RGL has discussed this possible issue with the All Party Parliamentary Group on Fair Business Banking (APPG).

HOW LONG WILL THE GROUP ACTION TAKE?

This largely depends on how the proceedings play out. The claim could be settled at any time prior to trial. In the event that the claim proceeds to trial, it is anticipated that a hearing will occur in the latter part of 2020.

MEET THE TEAM



Daniel Hall
Managing Director

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Daniel has over 17 years of financial services experience including eight years in Sales and Capital Markets roles at Barclays Investment Bank and four years as a Treasury & Capital Markets consultant at Deloitte. Daniel has also been a Chartered Financial Analyst (CFA) charter holder since 2004 and holds a PhD in Management from KTH Royal Institute of Technology.



James Hayward
Chief Executive Officer

James Hayward is a lawyer and investment banker with experience in the US, UK and Australia. He has vast experience in identifying opportunities and managing risk and costs associated with investing in litigation. He has run many large, complicated, multi-party, commercial actions and also been involved in the litigation funding industry.

About allSquare

allSquare are one of the UK's leading claims management companies that specialise in business banking claims. Established in 2012, we have assisted hundreds of business across the UK successfully claim compensation for mis-sold business banking loans, interest rate hedging products, tailored business loans, pensions and mortgages.

allSquare have been particularly active in assisting businesses claim for Clydesdale and Yorkshire Bank Tailored Business Loans across the UK and within certain industry sectors such as farming, property, hotels, leisure and manufacturing.

About RGL Management

RGL initiates, builds, and prosecutes large, complex, commercial legal actions.

The RGL team possesses extensive expertise and experience in law, investment banking, accountancy, insolvency, IT, corporate operational management, and claimant communication.

Both allSquare and RGL Management are regulated by the Claims Management Regulator, who are part of the Ministry of Justice, under CRM numbers 31952 and 42695 respectively.

MEET THE LEGAL TEAM



Andrew Onslow QC

Andrew was called to the Bar in 1982 and appointed Queen's Counsel in 2002. He has a wide-ranging commercial litigation and arbitration practice, in particular in the fields of banking and finance, fraud, professional negligence and art & cultural property. Andrew has considerable experience of group litigation, having successfully represented a major claimant group in the RBS Rights Issue Litigation, and being currently instructed by a major claimant group in the Volkswagen Emissions Litigation. Andrew is described by the legal directories as being "very hands on and fiercely intellectual ... bright, approachable and extremely good in court ... a very tenacious cross-examiner."



Garbhan Shanks

Partner - Commercial Dispute Resolution

Garbhan is a Partner in the Commercial Disputes department at Michelmores.

Garbhan's extensive experience includes acting for and against high-net worth individuals, corporates, financial institutions, insurers and governments in the High Court, Court of Appeal and House of Lords and in numerous LCIA, ICC and ad hoc arbitrations.

He has acted in a variety of matters from financial mis-selling, civil fraud, insurance coverage to professional negligence claims, which have also involved parallel FCA and FSO investigations.

Michelmores 

About Michelmores

Michelmores is a Top 100 UK full service law firm founded over 125 years ago with currently 68 partners and more than 450 staff. It has a strong commercial litigation, arbitration and regulatory team operating across their London, Bristol and Exeter offices with extensive experience in dealing with heavy weight, complex and high value litigation.


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