Tony Boorman
The Financial Ombudsman Service
South Quay Plaza
183 Marsh Wall
London E14 9SR

(Identical copy sent and addressed to: Martin Wheatley, Chief Executive Financial Conduct Authority, 25 The North Colonnade, London, E14 5HS)

Dear Mr Boorman

Request for direction for appropriate attention (redress calculations)

There is an upcoming problem that you may be unaware of, and I am asking you to consider the implications of this, and the corresponding evidence, to a proper degree of depth. I am, though, uncertain as to if this should be best addressed to FOS or FCA; as it may well be of equal interest to both, yet affects tens of thousands of people. To check this, please, can you let me know who the most appropriate person would be in your organisation to which I should be discussing this issue for proper consideration?

The essential problem is that FOS appears to have been inadvertently allowing a credit card issuer to systematically undercompensate around 25,000 *FOS judged in favour of the consumer* mis-sold PPI cases. These are people whom FOS have determined in favour of since June 2012, but allowed the firm to continue to self-report that they are following PS 10/12 compliance when calculating redress. The firm (MBNA) has been assumed by FOS staff to be following FCA and FOS requirements for redress calculation. To a casual enquiry the firm may even look and report as if they were, while the firm is clearly evidentially not doing so. In comparison with what MBNA are required by PS 10/12 to do (as per examples given in that guidance, or a fair account reconstruction method), redress calculations are recently typically 30% to 50% lower. This non-compliance can be shown within a number of cases, using MBNA's own documentation and reports.

We are a group of people with an interest in this, generally, and also from within that 25,000, and further also drawn from those of an order of magnitude larger number who were systematically undercompensated directly by MBNA without FOS involvement. All of those involved have individual hard evidence, supplied by the firm, of the firm's "error-of-judgement". This error lies within a management level of the firm encouraging non-compliant redress practices which are designed to appear, to an untrained eye, to be unfathomable yet possibly compliant (if they could be understood). To check the validity of our assertions requires a degree of focus on the methodology used by the firm. This effort appears, understandably, to be beyond the apparent work requirement of an FOS Adjudicator at case level (and, according to some published DRN Decisions, beyond that of some Ombudsmen as indicated through some recent Decisions).

To understand what the firm is "doing", requires that attention is spent on that particular task by someone who is competent to understand the structure and "intention" of the MBNA redress calculations, in comparison with DISP requirements. Once one understands the methodology (and results) of the MBNA calculations, it can be compared with what DISP requirements wording stipulates. Particularly pointed is the level of contrast to the relevant Appendix 2 Example 6 method. The firm's method (since June 2012) varies in its results from PS 10/12 proper redress by selectively making unjustifiable "assumptions" and then varies substantially (and cleverly) in how redress is unfairly handled within calculations.

Around June 2012, a particularly imaginative revision was added to the firms VO20_ series of redress calculations, making subsequent versions up to this time, to now be well outside of PS 10/12 requirements. From this point the firm's calculated redress is in many cases thousands of pound sterling below what either Example 6 calculates to, or as would be calculated using industry regulated correct standards, or using FOS licenced (Exasoft) Redress Manager, or a properly reconstructed account.

Where I am looking for your help, is to correct a misassumption. That miscomprehension is: that if a firm (MBNA in particular) reports to FOS that they have made (or will, as directed, make) an "FOS guidance compliant" redress calculation – then that this is, **in error**, assumed by FOS to be *what they will do*. This has not been the case with MBNA for over eighteen months - and tens of thousands of people have been affected. It appears that this firm may not have had their calculations properly checked since a time when a not altogether dissimilar situation was ordered recalculated in 2010. It could also be said that there is a public risk that this assessment may fall in-between the remits of FOS and FCA, and potentially not be attended to by either. I would like your help to submit our evidence with a view to seeing if this can be avoided or corrected. If it would help, as a start, perhaps an initial five or ten examples, or more, of redress calculations made by the firm under this method could be forwarded to the appropriate individual that I am requesting takes a look at this complaint.

If you can point me to the right person to talk or correspond to, that would be very much appreciated. Our further communications can spell out the basic mechanics elements of why MBNAs redress calculations are not as per regulatory requirement – to give a checkable indication that our claim is not an empty one.

I hope to hear from you soon with your suggestions, and most appropriate contact point.

Best Regards

Forum Group Member