



Perceptions – Are there

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PERCEPTIONS THE REGULATION OF BANKS

On the 20th January, the Treasury Select Committee will question the FCA Chairman and its Acting CEO about its decision to drop its Review on Banking Culture. Libertatem has seen many of the sessions between the TSC and FCA before. We expect this session to break down into a “he said/she said” event at which obfuscation will be the order of the day.

Rather than attempting to seek facts that will not be forthcoming; may be the TSC may be better employed questioning the FCA on the perceptions that their current regulation of the banks is creating a two tier system.

What are the optics of the current regime and do they lead consumers have confidence in it?

The FCA has created a two tier system:

- A Teflon coated officer super-class who can avoid any criticism by employing expensive lawyers, using their high level contacts and generally playing the system.
 - Smaller players upon whom unending levels of regulation and cost can be visited.
1. On a retail level; Banks are responsible for 79% of cases taken up by the Financial Ombudsman Scheme (FOS) and 49% of cases upheld by FOS. Whilst in recent times many of these cases are PPI claims. In previous years; banks have suffered similar level of complaints from investment and deposit clients in percentage terms.

In contrast, professional advisers have less than 1% of the FOS claims and 2 in 1,000 successful FOS claims but are still regulated as if they are multinational businesses who are gaming the system.

1. On a Macro level: the perception of a two tier system is further demonstrated by the way banks are investigated and disciplined. We have seen an inept investigation into HBOS which failed to name; either those HBOS directors responsible or the

regulators that had allowed the collapse. The investigation also took over 6 years ensuring that fining HBOS directors or staff was not an option.

Compare and contrast that approach with advisers which currently do not have any time limitations on their FOS cases and therefore can be pursued beyond 15 years into retirement and beyond.

1. The HBOS investigation followed the RBS investigation The taxpayer sunk £46bn into RBS, and yet, after over 6 years, we still do not know the real reason for the collapse and who was to blame and again not a single main board director was fined or disciplined.

Again compare and contrast this with the recent case of a mortgage adviser who stupidly massaged his own earning figures on his own mortgage. This was discovered and he was fined and banned from the industry for life, despite an appeal the ban still stands.

Finally, the UK was central in the LIBOR scandal which has seen the odd middle ranking trader prosecuted but again no main board director was prosecuted or disciplined.

The current system allows regulatory incompetence, government interference and financial scandals to be buried well away from Parliamentary and public scrutiny for such a long time that accountability becomes pointless.

The perception is that this is its true function. The naïve might believe that regulation exists to protect consumers. It may be the excuse for its existence but it certainly does not do that at the moment and it needs to.

The final area which enforces the perception of a two tier system is the employment of regulators. It is very clear that there is a revolving door between the big players and regulators. Libertatem has been keeping an eye on this for a long time.

Of the 18 senior ex-regulators we have tracked:

8 have move to Banks

6 have moved to Insurance Companies

3 have moved to Major Accountants who both audit the above and derive significant business from regulation.

A number have moved from one larger player to another. Whether right or wrong: the perception is that larger players are given a softer ride because future employment opportunities beckon.

Last week; the FCA has announced that it would no longer be publically pursuing its review into Banking Culture and instead will "engage individually with firms to encourage their delivery of cultural change". Are the regulators engaging doing so with a CV in their back pocket?

No one wishes to see Bank Bashing or some sort of witch hunt but the optics of the current system are counterproductive for the interests of the banks as well as the rest of the sector.

The perception of the Financial Services sector is not helped by some regulated individuals appearing to be both not to be personally liable for their actions and having friends in high places that will offer protection.

I know that TSC members have expressed exasperation over the lack of real accountability but it now time that action was taken.

Let us see how this session goes. I look forward to being in the audience.