

andrew bailey interview

FCA chief Andrew Bailey wants scrutiny of small business lending controls

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Andrew Bailey says there is a strong case for [small business lending](#) to be made a regulated activity after a series of banking scandals hurt tens of thousands of companies.

The chief executive of the Financial Conduct Authority said that there needed to be a “serious assessment of the pros and cons” of bringing lending to smaller companies under the remit of the City regulator.

The FCA faced heavy criticism from MPs and business owners when it said that it could not censure Royal Bank of Scotland when the bank’s Global Restructuring Group (GRG) systematically mistreated thousands of businesses. The regulator said this was because lending is not regulated.

The government has rejected calls from the Treasury committee to change the law after this and other lending scandals, but Mr Bailey suggested the decision should be revisited.

He noted that the relationship between small business owners and banks is governed by contract law. Loan contracts often have clauses which free lenders from any obligation to treat customers fairly.

Mr Bailey said this can create a conflict with FCA principles. “It’s not contract law plus our rules and regulations. It’s contract law, and contract law doesn’t have an overarching provision for good conduct.”

He said that he disagreed with the argument made by Ross McEwan, the outgoing RBS boss, and others that regulating business loans would restrict credit to small companies.

“Would it restrict it more than the legacy of [the poor conduct] we’ve had? I’m not very convinced about that argument. I’m not sure regulation would overwhelm the competition to get assets on your balance sheet.”

He also called on banks to be more flexible over the criteria for a new scheme which will tackle unresolved complaints against lenders from small companies.

Seven banks have joined the so-called business banking resolution service, but there is a row over the eligibility criteria after the suggestion that any business that has been through formal legal action or, more contentiously, a previous bank-run redress scheme, will be excluded.

Mr Bailey said that banks should be “more open” to accepting such cases where “clear evidence comes to light”. “We need a process by which justice is seen to be done.”

GRG was ostensibly there to return companies to financial health but instead focused on extracting income from them, damaging many people’s livelihoods in the process.

The malpractice took place before the introduction in 2016 of the senior managers’ regime, which was designed to ensure that executives are held directly responsible for their actions.

The watchdog has said that it cannot make a “hypothetical judgment” as to whether the rules could have been used against RBS bosses had they been in place during the GRG review period, which covered 2008 to 2013.

However, Mr Bailey told The Times that the regime would be likely to be used if a similar scandal happened now. “If we couldn’t act [on another GRG] there would be big questions.”

He said this would “particularly” be the case once the senior managers regime is accompanied by a new set of guidelines that is being produced by the Lending Standards Board, a body which promotes fair treatment of borrowers.”