FCA says it lacked powers to act over disgraced RBS unit Long-awaited report by UK watchdog says commerical lending was not regulated

Caroline Binham in London 54 minutes ago Print this page

The UK's financial regulator declined to take action against the Royal Bank of Scotland over its disgraced restructuring unit because it concluded it lacked the relevant powers. In a long-awaited final report in the saga of the bank's now-defunct Global Restructuring Group, the Financial Conduct Authority said that it would not be able to fine the bank or take action against senior managers because commercial lending is not regulated. The taxpayer-controlled bank stood accused of exploiting small businesses in the wake of the financial crisis by pushing them into restructuring and profiting from buying assets at heavily reduced prices.

The FCA concluded that there was no evidence that the bank artificially distressed otherwise healthy businesses. The regulator also found no evidence of dishonesty by senior individuals. After a four-year investigation — including commissioning an independent review by a consultancy firm that found inappropriate treatment of customers to be "widespread and systematic" within GRG — the FCA decided not to take any further action because commercial lending was unregulated and the rules at the time around what was expected of senior managers were unclear. "We use investigations as a diagnostic tool.

We do not begin an investigation on the basis that we will be able to secure punishment. We do it to ensure we understand the full picture of events, and we then decide if it is possible and appropriate to take action," concluded the FCA's 71-report published on Thursday.

The controversial decision by the FCA prompted a legal challenge from one of GRG's customers, and also led to a parliamentary committee to call for commercial lending to become regulated in order to close a "regulatory black hole" that has led to "scandalous" behaviour by banks. Commercial lending still remains unregulated today.

Andrew Bailey, the FCA's chief executive, said in a statement on Thursday: "Our investigation has found that GRG clearly fell short of the high standards its clients expected but it was largely unregulated and so our powers to take action in such circumstances, even where the mistreatment of customers has been identified and accepted, are very limited.

"GRG has been highly damaging for those customers impacted and more widely for the reputation of the banking industry. Combined with other issues that have impacted SMEs it is important for all who work in this sector to regain the public's trust." Howard Davies, RBS chairman, welcomed the FCA's conclusions and said: "The way the bank deals with business customers in financial difficulty today is fundamentally different to the aftermath of the financial crisis, during what was a hugely challenging time for the bank, its customers and the wider economy. We are committed to ensuring that past mistakes cannot be repeated." While commercial lending remains unregulated, the FCA maintains it now has a greater toolbox to take action, including tough new rules that hold senior managers to account for failings on their watch, even if not strictly regulated activity. Additional reporting by Nicholas Megaw in London