

*Report by the
Derivatives Committee*

Recovery Framework for Interest Rate Derivatives

19 December 2016

Why was the recovery framework set up?

The Dutch Authority for the Financial Markets (AFM) established that various banks have failed to sufficiently take the interests of clients that are SMEs into account when providing advice about and entering into interest rate derivatives. On the AFM's advice, in March 2016, Minister of Finance Dijsselbloem appointed three independent experts in order to agree on a recovery framework with the banks. The experts (Ben Knüppe, Theo Kocken and Rutger Schimmelpenninck) form the Derivatives Committee.



What is the recovery framework?

The recovery framework determines how reassessments of interest rate derivatives and possible remedial actions should be carried out by the banks. On the basis of the recovery framework, clients that are SMEs are compensated.

*This is a translation of a Dutch summary of the Recovery Framework.
The full Dutch text of the Recovery Framework prevails under all circumstances.
The full text is available at www.derivatencommis sie.nl.*

How did the recovery framework come about?

The Derivatives Committee held talks with SMEs, their advocates and the banks, in order to approach the issue from different perspectives.

On 5 July 2016, the Derivatives Committee published the recovery framework. Rabobank, ABN AMRO, ING, SNS, Van Lanschot and Deutsche Bank are taking part in the recovery framework. The recovery framework focuses in particular on small to medium SMEs with loans and interest rate derivatives.

What have the banks and the Derivatives Committee done since 5 July 2016?

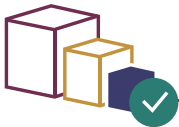
Since the recovery framework was published on 5 July 2016, the implementation of the recovery framework was prepared in a 'pilot phase'. The participating banks, together with the Derivatives Committee, the AFM and external case reviewers, looked into the steps that needed to be taken in order to implement the recovery framework. The Derivatives Committee also consulted with advocates of the SMEs. The pilot phase concluded on 19 December 2016, when the (definitive) recovery framework with enclosures was published.

SCOPE OF APPLICATION

Does the recovery framework apply to you and do you need to do anything?



• If you, as the owner of a small business, held an interest rate derivative between 1 April 2011 and 1 April 2014, in principle the recovery framework applies to you and you will be actively approached by your bank. If you held an interest rate derivative that commenced after 1 January 2005 and was set to continue until after 1 April 2011, but that was settled before then, the recovery framework also applies to you. In that case, you must report to your bank by 30 September 2017 at the latest.



• If you are the owner of a larger business or have a high level of knowledge (e.g. if you have received advice from an experienced treasury advisor), the recovery framework does not apply to you and you won't receive any compensation. In that case, the recovery framework will categorise you as professional and/or expert.



RECOVERY ELEMENTS

What does the compensation under the recovery framework comprise?

The compensation comprises one or more of the following elements:



- Structured, complex ('exotic') derivatives are adjusted by the bank.



- The banks offer compensation if interest rate derivatives are not (sufficiently) consistent with underlying loans.



- The banks offer ex gratia compensation. This compensation amounts to a maximum of 20% of the interest that, on balance, has been and is expected to be paid to the bank under an interest rate swap or interest rate collar.



- The banks compensate unexpected interest margin rises to finances that are covered by an interest rate swap.

The ex gratia compensation amount (third element) is capped at EUR 100,000. The compensation of the other elements is not capped. If the bank has already awarded compensation for an interest rate derivative, this will be deducted from your compensation under the recovery framework.

In addition, compensation may be granted (i) for the costs of legal/financial advice regarding complaints about an interest rate derivative (max. EUR 10,000) or

(ii) for the costs of participating in an interest group (max. EUR 3,000), if the advice or participation in question commenced prior to 1 March 2016 and the costs were incurred prior to 19 December 2016.

RECOVERY IMPLEMENTATION

What will the banks do from 19 December 2016?

The banks are preparing their systems to reassess the cases. First of all, the bank will assess whether a client is eligible for an offer for recovery. If they are, the banks will make an offer for recovery. The bank will give priority to vulnerable groups, including clients in financial difficulty.

What can you do if you receive an offer?

As soon as you receive an offer from your bank, you need to check carefully to see whether you identify with the offer and whether it provides a solution for you. You may want to seek advice about this. If you accept the offer, you give the bank 'full and final discharge'. This means that you can no longer submit any claims about the interest rate derivative case to your bank. If you accept the offer, it is, however, possible to request binding advice regarding a few specifically defined points. The offer from your bank will provide you with further information about this.

Who controls the implementation of the recovery framework?

Independent external case reviewers and the AFM check to make sure that the banks are implementing the recovery framework correctly.

What is the role of the Derivatives Committee from 19 December 2016?

For the main part, the role of the Derivatives Committee ends with the formation of the recovery framework. The Derivatives Committee will only continue to be involved as a binding advisor with regard to a few specific topics from the recovery framework. In addition, the Derivatives Committee may still be asked to explain the recovery framework when applicable.

Who can you contact about the implementation of the recovery framework?

Your bank is your contact with regard to the recovery framework. You will receive an information letter from your bank with timelines and further information. You can also find information about the implementation of the recovery framework on the AFM website (www.afm.nl).