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Phila. Sues Big Banks, Alleging Antitrust Violations

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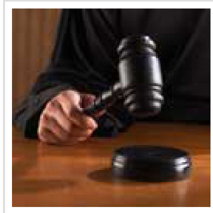

Manipulation of the index used to calculate the interest rate paid by big banks to municipal bond issuers on interest-rate swaps led to sizable losses for Philadelphia and other government entities across the country, the city alleged in a complaint filed in the Eastern District of Pennsylvania.

The suit — filed against Bank of America, Barclays, Citibank, Credit Suisse, Deutsche Bank, JPMorgan Chase, Royal Bank of Canada, Royal Bank of Scotland and UBS — alleges that the banks colluded in order to suppress the London Interbank Offered Rate, which is an index frequently used to set the floating interest rate in the once-popular "fixed-to-floating rate agreements" that banks marketed to municipal entities. The London Interbank Offered Rate is more often called Libor.

"Defendants in this case worked together to suppress Libor, which had the immediate effect of raising the amount paid by the municipal party. This is because, when the banks suppressed Libor, their obligation under the floating-rate arm of the swap was reduced, and thus the net amount the state or local counterparty had to pay increased," according to the complaint from the city of Philadelphia.

"This conduct is nothing short of naked price-fixing," it said.

In the last 20 years, the interest-rate swap system has operated on hundreds of trillions of dollars' worth of state and local bonds, according to the complaint.

Banks pitched the interest-rate swap to municipalities as a way for the issuers of public debt to manage their interest rates, according to the complaint.

The most common swap, called a "plain vanilla" swap, involves an agreement that one party will pay a fixed interest rate on the notional amount, typically the value of the bond, and the other party will pay a floating interest rate on the same notional amount. The floating interest rate is usually based on Libor, according to the complaint.

"For example, an issuer may want to pay the floating rate under a fixed-to-floating rate swap with the goal of incurring lesser borrowing costs by obtaining a lower 'all-in' floating rate than it would otherwise be able to get if it issued the debt directly. Swaps were also promoted as a hedge against dramatic interest rate changes," according to the complaint.

Under the usual rules of the agreements, the municipal agency and the bank are supposed to make their interest payments on the same day so that the payments are "netted," according to the complaint. One party is then considered "in the money," and gets a net payment under the swap, while the other party is "out of the money," according to the complaint.

The city alleges that the banks "artificially and collusively suppressed Libor, which had the effect of secretly tilting the swaps in their favor, causing the banks to be substantially 'in the money' when they did not deserve to be, and effectively raising the losses to the city of Philadelphia and others for these transactions."

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They were able to manipulate Libor through their positions on the British Bankers' Association's panel of banks that determines Libor, which is issued daily. The BBA establishes Libor based on submissions from the member banks assessing the rates at which they would be able to borrow in various currencies on London's interbank lending market, according to the complaint. Libor is an average of those rates that is published in various financial newspapers.

The BBA isn't a regulatory agency; rather, it is governed by a board of 12 member banks, according to the complaint.

"The panel banks were supposed to make their Libor submissions as independent actors. Instead, defendants ignored the Libor panel rules and took advantage of the BBA's self-governing structure, making the BBA a de facto cartel," the complaint alleges. "This cartel provided the means through which defendants could suppress Libor."

"As an RBS trader stated to a colleague in a recently released instant message, 'it's just amazing how Libor fixing can make you that much money. ... It's a cartel now in London,'" according to the complaint.

The manipulation of Libor became public in 2011 when UBS disclosed that it had been subpoenaed as part of a government investigation, according to the complaint. Governments around the world had regulatory agencies investigating the scheme; the first results of those investigations were made public in 2012 when settlements with Barclays were announced.

The British bank paid $433.5 million in fines to the U.K. government as part of its settlement, according to the complaint. Barclays also admitted that it had submitted "improperly low" estimates for its borrowing costs to the BBA for Libor, according to the complaint.

Joshua Snyder of Boni & Zack is representing the city of Philadelphia and couldn't immediately be reached for comment.

Spokespeople for Bank of America, Citibank, Credit Suisse, JPMorgan Chase and the Royal Bank of Canada declined to comment.

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