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FINANCIAL INDUSTRY UPDATE

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Banks risk further retrospective FSA regulations by withdrawing from PPI legal battle

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Barclays, HSBC and RBS have joined Lloyds in withdrawing from the legal fight over the Financial Services Authority's introduction of new rules regarding the mis-selling of Payment Protection Insurance policies. Barclays has agreed with the FSA that it will begin to process all complaints over PPI, and all are preparing to allocate funds to cover the vast numbers of compensation payments that will now be due. The British Bankers' Association, the main industry lobbying group which argued on behalf of the banks that the FSA was trying to retrospectively implement new rules to previous sales has also confirmed it will not appeal against the high court decision dismissing its judicial review.

Following these announcements, many UK observers have speculated that the banks have chosen to prioritise more important regulatory battles such as the commission's recommendations on banking reform and Lloyds' battle against pressure to sell more than the 600 branches as required under European competition rules. However, whilst the direct impact of these withdrawals may not extend beyond the quantifiable economics of compensation payments and share price reaction, the indirect results have the potential to be of far more significance. At a time when there is relentless pressure from the government and the public to impose stricter regulatory regimes, the willingness of the BBA and these two major banks to concede the argument that the FSA had retrospectively implemented regulations poses the question as to whether the FSA will feel empowered to act in a more retrospective manner in future regulatory reforms. In the event that this is an emerging trend, surrendering this legal fight to pursue those of more tangible economic value may still prove to be a damaging long term decision with banks and investors alike keeping a close watch on future FSA proposals.