

Pensions Sue Banks Over Credit-Default Swaps

Lawsuit Alleges Big Lenders Conspired to Fix Pricing, Control Market Access

By

• KATY BURNE

Big banks are facing new allegations they conspired to control pricing and access in the lucrative credit derivatives markets.

Three Danish pension funds and their investment-management company filed a lawsuit Thursday in U.S. District Court for the Northern District of Illinois, alleging antitrust violations and saying the banks "unreasonably restrained competition" in the \$25 trillion credit-default-swaps market. The funds allege that the harm done to investors as a result of anticompetitive practices was "in the tens of billions of dollars." They asked the court for injunctive relief in addition to monetary damages, which they didn't specify.

Credit-default swaps are insurance-like contracts designed to pay out when a country or a company defaults on its debts.

The move by authorities constitutes the latest headache for banks already facing a wave of lawsuits on everything from mortgage bonds to alleged manipulation of interest rates.

Thursday's lawsuit follows a similar suit filed in May, also in northern Illinois, by the Sheet Metal Workers Local No. 33 Cleveland District Pension Plan. That suit was amended Friday to include additional allegations.

The Sheet Metal Workers suit said the banks' control of the credit-default-swaps market led them to overcharge customers by about \$7 billion a year and seeks treble damages. The pension plan said damages could be in the billions of dollars.

The Danish funds' suit also comes on the heels of action by European antitrust authorities, who alleged improper practices in credit derivatives markets.

Both U.S. cases cite as defendants 12 banks, as well as Markit Group Ltd., a financial data provider specializing in derivatives that is partly owned by the lenders, and the International Swaps and Derivatives Association, a global financial trade body.

The banks named in the U.S. suits were: [Bank of America Corp.](#), [Barclays PLC](#), [BNP Paribas SA](#), [Citigroup Inc.](#), [Credit Suisse Group AG](#), [Deutsche Bank AG](#), [Goldman Sachs Group Inc.](#), [HSBC Holdings PLC](#), [J.P. Morgan Chase & Co.](#), [Morgan Stanley](#), [Royal Bank of Scotland Group PLC](#) and [UBS AG](#). Representatives for the banks and Markit declined to comment. A spokeswoman for ISDA said it believes "the allegations against us are without merit and that ISDA acted properly at all times."

Chris Burke, partner at Scott + Scott, which is representing the Sheet Metal Workers pension plan, said customers in the credit-default-swaps market were wary of filing a lawsuit because the banks control the credit markets. He said he hoped other bank customers "would join the fray" to protect and promote competition.

The Danish entities are: Unipension Fondsmæglersekskab, Arkitekternes Pensionskasse, MP Pension-Pensionskassen for Magistre & Psykologer, and Pensionskassen for Jordbrugsakademikere & Dyrslaeger.

Their suit accused the defendants of inflating their profits by jointly controlling intellectual property rights in credit-default-swaps markets, blocking the entry of would-be exchanges and restricting customers' access to real-time credit-default-swaps prices.

"There are very substantial practical impediments to other companies making markets in competition with the defendant banks" in credit-default swaps, said Daniel Small, a partner at Cohen Milstein Sellers & Toll, which represents the funds.

This month, the European Commission accused Markit, along with 13 banks and ISDA, of colluding to prevent credit-default swaps from trading on open exchanges.

The Justice Department confirmed in 2009 that it had launched a probe into the possibility of anticompetitive activity in credit derivatives trading, clearing, and in the information services industries supporting it. That investigation is continuing. The Justice Department declined to comment on the investigation.

Dealers have been highly protective of their hold on the credit-default-swaps market because the instruments have made them huge profits.

The suit from the Danish funds accuses the banks of protecting their trading profits by ensuring only trades to which they were a counterparty could be cleared. The suit said the banks "eliminated" competition from would-be entrants, in part by "jointly acting through Markit and ISDA to coerce" [CME Group Inc.](#), which operates a credit derivatives clearinghouse, from only accepting trades in which a dealer was on one side. A CME spokesman declined to comment.

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