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Response to DFSA-letter: Anmodning om redegørelse om Danske Bank A/S' gældsinddrivelsessystem J.nr. 6252-0349

INTRODUCTION

Danske Bank A/S (Danske Bank or the Bank) refers to the Danish Financial Supervisory Authority's (DFSA) letter dated 31 August 2020. In this letter, the DFSA informs the Bank that in light of recent information about the flaws in the debt collection system, it has decided to investigate the Bank's handling of the errors found in the Bank's debt collection system in relation to the Bank's obligations to act fairly and loyally toward its customers (see section 43 of the Danish Financial Business Act and the Danish Executive Order on Good Practice for Financial Undertakings).

As an introductory remark, we would like to underline that we deeply regret the situation and the uncertainty our mistakes and the data flaws in our debt collection system have caused – not least amongst our customers. Customers and all other stakeholders should of course be able to trust the data we provide them and base our advice and agreements on. We are deeply sorry that this has not been the case in this situation. This is solely our responsibility and we are fully committed to review and remediate all cases impacted by the data flaws as soon as possible and ensure that our customers are fully compensated for any over-collection or other, related loss they have suffered as a result of our mistakes.

Similarly, we can only express regret to our customers, employees and all other stakeholders that this problem has not previously been handled in a proper manner. This is a complex issue; however, it is clear to us that there has been knowledge about at least parts of the problem in different parts and levels of the organisation, including leaders, during the years. Despite attempts to manage the problems the underlying data flaws were never fully addressed and unfortunately in this case this has caused the issues to continue over the years.

We take the matters raised in the DFSA's letter very seriously and commit to continue to engage in an open and transparent manner with the DFSA in relation to the historic and current issues related to or affecting

the debt collection systems of the Bank. It is always the responsibility of the leadership to know what goes on in the Bank, to remediate past mistakes, and to ensure we have a management culture where mistakes and problems are brought out into the open and solved.

We will continue to progress further actions to ensure that sustainable solutions are implemented based on the principle to put the Bank's customers first. As this analysis continues, should the Bank identify anything that would change the information provided in this response, it will of course revert to the DFSA to clarify without delay.

The Bank would like to emphasize that it will compensate all customers affected by the four root causes described below that are economically impacted by the unfortunate systemic flaws in the Bank's debt collection process that have been identified by a thorough analysis of the Bank's debt collection systems. On 10 September 2020 the Bank has further decided to offer all potentially impacted customers to pause repayment of their debt at no cost.

The Bank has and will continue to allocate significant resources in order to rectify the flaws and indemnify all affected customers as soon as possible. The systemic data flaws identified are described in more detail below. During the analysis of the debt collection problem and the four root causes, we have so far identified a number of actual and potential additional issues which are listed in appendix 2.5. These issues will be progressed to fully understand them and will be addressed accordingly. Some of the issues identified are interest on dunning fees, erroneous data set for court cases, agency fees and inaccurately registering tax information. These issues potentially affect a broader number of customers than those impacted by the four root causes as detailed in this response.

Members of the executive management were informed of the systemic data flaws affecting the Bank's collection systems in May 2019 and reacted by initiating the remedial measures described in this response.

BACKGROUND

By way of background, the Bank currently operates with two different debt collection systems; (i) the Debt Collection System (DCS) and (ii) Personlige Fordringer (PF).

- The registered debt in DCS arises from customers' payment defaults under regular banking products such as overdraft facilities, standing loans, guarantees, etc.
- The registered debt in the PF-system, arises from customers' personal debt originating from not fully covered mortgage loans granted by Realkredit Danmark A/S (RD) following any kind of sale of a customer's real estate.

DCS was implemented in 2004 for the purpose of centralising the debt collection processes across the Bank.

The PF-system was implemented in the Bank in 1979.

Historically, the individual branches ran the local bank customers debt overview and handled any instances of defaulted debt with manual processes to ensure the correct handling of repayments. This pre-2004 debt collection implementation was supported by the PF-system and several legacy systems (e.g. paper repositories, spreadsheets, Lotus Notes) with highly localized processes and controls. The pre-2004 debt collection systems had some inherent weaknesses however manual processes were in effect to mitigate such weaknesses in the vast majority of cases.

In 2004, data in relation to all outstanding defaulted debt with the Bank was migrated into DCS. Following this migration of data all new collection cases were opened directly within DCS (except cases originating in the PF-system as stated above).

The data migration to DCS contained the pre-existing incorrect data in relation to outstanding amounts owed by certain customers. Over time an increased level of reliance on the DCS, lower levels of institutional knowledge in those involved in the debt collection process, and reduced reference to historic paper records has contributed to the persistence of errors in handling the debt of some of the Bank's customers. As described in more detail in the response to Question 1 historically there has been an awareness of such issues within the Bank and the Bank implemented various processes to mitigate the impact. Despite escalations, the Bank did not do enough to address the issue in its entirety. Furthermore, a major change to the Limitations Act in 2008 complicated the debt collection processes in the Bank. The root causes adversely affecting the functions of the collection systems and the impact on customers are described in the response to Question 2 below.

In May 2019 the Bank started a process to ensure that all aspects of the system flaws would be investigated and rectified and in particular for the purpose of identifying all customers that were economically impacted in order to fully compensate such customers.

As further described in the responses to Questions 3 and 4 the Bank has implemented a number of measures from June 2019 to mitigate the adverse effect of the systemic system flaws. As described in the response to Question 5 below the Bank's analysis shows that within a group of 106,000 customers potentially 10,000 - 15,000 customers may be economically affected. Due to the complexity and variable nature of the system flaws debt owed by all potentially impacted customers must be recalculated manually. The first groups of affected customers have been compensated and a plan has been made in order to effect a full indemnification of all impacted customers by 1 July 2021 as described in the answer to Question 7.

Please see the Bank's responses to each of the questions raised by the DFSA below:

I. DFSA REQUEST FOR THE BANK TO ACCOUNT FOR THE PROCESS RELATING TO THE ERRORS IN ITS DEBT COLLECTION SYSTEM

QUESTION 1: WHEN DID THE BANK BECOME AWARE OF THE ERRORS FOR THE FIRST TIME?

Employees at different levels in the organization, including managers, at various points in time have known about the problem to varying degree.

As mentioned above, members of the executive management were informed of the systemic flaws affecting the Bank's collection systems in May 2019. The below provides an overview of the awareness within the Bank of the systemic data flaws.

The Debt Collection System (DCS)

The planned implementation of DCS spanned over a period of time prior to 2004. The Bank understands that it was known that the data being transferred to DCS had some inherent issues. Therefore, at the time of the implementation of DCS in 2004, there was awareness in the Bank that there would be systemic data flaws in DCS.

For several years after the implementation of DCS in September 2004 the Bank understands there was a relatively high level of manual handling of the customer files. The manual handling meant that the data in DCS, e.g. the data on the principal amount of a customer's debt, in practice was normally checked against the information on the debt in the physical customer file. This meant that data flaws were normally corrected or taken into account before having any impact on the customers. It is not clear to the Bank how effective the manual handling was. However, it is the Bank's understanding that efforts were made to ensure that the flawed data in DCS was normally checked against the customer files due to the awareness of the systemic data flaws in DCS.

In 2007 a "Correction Team" was established with the purpose of manually correcting the cases in DCS on a continuous basis.

A number of audit observations were issued during 2005-2016, some of which were linked to the issues that the Bank is now facing. The Bank recognises that it did not do enough to fully address the root causes of the findings made by audit or to effectively follow-up on all of the actions as summarised below:

In the first two years after the DCS implementation the Bank issued two internal audit reports (published in January 2005, and in January 2006) that identified issues with the data quality in DCS, the need for significant corrections and recommended for Debt Collection Service to do a total clean-up of incorrectly registered cases and that periodic checks be performed to ensure that the problem did not persist.

Audit Reports published in 2010 (four audits) and 2011 (two audits) identified a number of issues with Group Recovery Debt Management (GRDM) controls and processes as lacking or insufficient, gaps in registered claim expiry dates, and incomplete or unprocessed cases regarding bad debt. In 2012, internal audit identified GDRM were incorrectly processing outstanding debt, insufficient data review and calculation of loan charges and incorrect interest calculations.

Audits of the area in 2015 and 2016 did not reveal issues to the extent that have now been discovered.

A planned audit of the area in 2019 was not conducted due to the now ongoing internal investigation of the area.

In the period 2006 - 2016 certain discount offer campaigns were contemplated. During these campaigns the relevant debtors would be offered a substantial "hair cut" to their debt. Four campaigns were escalated for approvals within the Bank in 2007, 2009, 2014 and 2016 although the Bank understands not all of the campaigns were actually launched. There was an understanding within the Bank, at least in connection with some of these campaigns, that the campaigns would reduce the scale of manual debt recalculation for the customers successfully covered by the campaigns and reduce the risk of claims being time-barred.

In 2008, amendments to the Limitations Act were implemented in Denmark. This meant that going forward principal amounts on loans had in general a time-barring period of 10 years and interest and costs carried a time-barring period of 3 years (except costs awarded by the court). Prior to this, the time-barring periods were 20 years and 5 years, respectively. Moreover, the new rules made it much more difficult to suspend the time-barring period. The new limitation rules exacerbated the issues with the flawed data in DCS.

In 2009, Danske Bank launched an initiative known as LEAN, which aimed to streamline existing business processes in an attempt to become more efficient in case handling. The focus on LEAN meant that the employees in the Debt Collection Area were under increasing pressure to rely on the data in DCS when carrying out debt collection and not to spent time looking at physical files. This increased transitioning into reliance on the data in DCS and it meant that the prior manual controls of the flawed data in DCS prevented

(at least to a certain extent) the data flaws from ultimately impacting the customers were carried to much less degree.

At the end of 2016 the Bank closed down the Correction Team because the Correction Team was thought to have completed correcting old cases. It was the understanding that "new cases", i.e. cases after 27 September 2004 when DCS was implemented, were correct.

Despite this understanding, new cases with errors began to appear. In internal escalations during 2016 and 2017 it was stated that also "new cases" included incorrect calculations. It was in that connection suggested to set up a task force to handle problems with "new cases" of incorrect data now that the Bank had finished correcting the old cases in 2016. However, a decision was made not to allocate new resources to a new task force (a new correction team).

In the period from March 2018 to September 2018, new management in the legal function of the Debt Collection Service developed an understanding regarding cases that continued to require manual correction. In September 2018 the issue of continued errors in DCS was raised to senior management in GRDM. GRDM looked into the issue and potential data solutions. GRDM Management also recognised that the data issues in DCS could impact the Bank's plans for additional outsourcing of the debt collection process. The Bank understands the potential concern may (in December 2018) have been raised to a Sponsor Committee overseeing a programme looking into enhancing the Bank's soft collection process. It does not appear the nature of the underlying data issues were covered in this meeting.

In January 2019 a memo describing issues with the data quality in DCS was prepared and by March 2019 GRDM management concluded that the issue of errors in DCS required escalation and informed senior management within the COO organisation in March 2019. A risk assessment was then conducted leading to an Operational Risk Information System ("ORIS") notice regarding data quality issues within the DCS being made on 24 May 2019. The ORIS stated that it had been discovered that the DCS suffered from certain data quality issues, and that the inherent issues with the debt collection processes were not merely manual errors. The ORIS is a means of formal record-keeping and management of operational risk incidents and a severity rating triggers a process of escalation internally, including requirement to engage the DFSA in more severe cases. The severity of the incident was identified as being of a sufficient to trigger both internal escalation to the executive management and the board of directors and a notification to the DFSA of the incident. As you are aware, the DFSA was notified by a written notice on the 6 June 2019. The executive management and the Board of Directors were also informed on 6 June 2019.

In the ORIS notification to the DFSA it was stated that a project was formed to focus on:

- Root cause analyses to be performed to stop the errors in all new debt collection cases
- Clean up the data in the portfolio (incl. reviewing all cases and pay back any collected debt that we were not entitled to)
- Setting up the new system and procedures
- Communication to customers and pay them their money back as soon as possible

The project established was called the "Data Quality Project". During the Data Quality Project various measures were taken to analyse and handle the identified issues. External legal counsel and consultants were also engaged to assist identifying, understanding and remediating the issues. The Data Quality Project was later converted into "Programme Athens" on 4 November 2019 following a presentation from Plesner Law Firm on 29 October 2019 where it became clear to the executive leadership team that the data flaws were more systematic and had a more severe impact than what had previously been the understanding. Reference

is made to the responses to questions 3 and 4 in respect of the various measures and initiatives that were taken during the Data Quality Project and Programme Athens.

Personlige Fordringer (PF)

A non-financial event was detected by GRDM on 4 July 2019 and raised in an ORIS. It was discovered that to some extent known data quality issues were system driven rather than human and manual errors. Inadequate PF-system capabilities resulting in poor data quality.

The PF-system has been in place since 1979. Issues have arisen over a long period of time. The errors and the systemic data flaws were detected on 4 July 2019.

Since 4 July the risk in PF system has been merged into the Data Quality Programme established for the risk in DCS-system.

QUESTION 2: WHAT DO THE ERRORS SPECIFICALLY CONSIST OF AND HOW HAS IT IMPACTED THE CUSTOMERS

The systemic data flaws identified are based on incorrect migration of data, misalignment and incorrect use of the debt collection systems within the Bank.

As a result of an insufficient governance setup in GRDM the systemic data flaws have resulted in a high number of incorrect debt collection cases in addition to an inadequate audit trail. The GRDM department did not have an adequate framework of governance and controls to identify and rectify all cases of incorrect debt collection.

The descriptions of the systemic data flaws have been categorized into four main root causes. The root causes categorized is the basis for the data analysis and remediation. Attached to this response is:

- The Draft System and Process Flaw Document of 28 November 2019, Appendix 2.1, for a more detailed description of the systemic data flaws identified in the DCS.
- An internal presentation of 26 November 2019, Appendix 2.2, for an overview of the systemic data flaws in DCS, and
- A memorandum on the main root causes and Danske Banks obligation to compensate customers, Appendix 2.3.
- Data analysis and considerations within debt collection, Appendix 2.4

2.1 Root cause 1: Principal, interest and fees collapsed

Affected systems: DCS & PF

Generally, customer debt consists of a variety of different claims, e.g. principal, interest, costs and fees.

The systemic data flaws described in root cause 1 is a result of accrued interest, fees and costs on debt being incorrectly aggregated into a single amount and added to the principle amount. The implications of root cause 1 are that the systems do not distinguish between the different types of claims despite that in the context of time-barring principles such claims are subject to different time-barring periods. Moreover, interest was being accrued on dunning fees (in Danish: Rykkergebyrer) prior to a court ruling.

The potential impact of charging interest on the dunning fees has not been included in the impact calculation in respect of root cause 1. A separate working group is investigating the matter.

How has root cause 1 impacted the customers?

Root cause 1 makes it difficult to track and identify differing periods of limitation applicable to principal, interest, fees and costs, respectively and may result in inaccurate calculation of the remaining debt, interest, etc.

Root cause 1 may lead to:

- Collection of time-barred claims,
- Incorrect tax reporting in relation to tax relief on interest, and
- Customers over-paying their debt

2.2 Root cause 2: Incorrect debt origination date

Affected systems: DCS

The statutory limitation period starts counting from the date the specific debt falls due. When a debt was transferred into DCS, however, the systemic statutory limitation period was effectively reset to the date of the transfer - and not the actual due date. The incorrect origination date in DCS will make the debt appear younger than it actually is.

This meant that it was difficult, using DCS, to identify and control at which point in time the statutory period of limitation should be interrupted to avoid the debt becoming time-barred.

How has root cause 2 impacted the customers?

The Bank may have collected debt, that at the time of the collection process was time-barred.

- Customers may have entered into settlement agreements in circumstance where the debt was time-barred in whole or in part,
- The Bank may have initiated unlawful court proceedings against customers, and
- The Bank might have collected debt that was time-barred.

Settlements agreements or court orders made, in or around the time of the expiry of the limitation period (as incorrectly determined by DCS or PF) are an increased risk of containing elements of the debt which may have been time-barred and therefore should not have been collected.

2.3 Root cause 3: Guarantors and co-debtors treated alike

Affected systems: DCS

Root cause 3 is a result of an improper and incorrect one-off migration in 2004.

Prior to implementing DCS in 2004, Danske Bank operated a number of decentralised debt collection departments and systems.

In 2001 Danske Bank acquired BG Bank, including BG Banks debt portfolio. In BG Bank some inherent weaknesses existed in the legacy debt collection system. It was in the registration of guarantor and co-debtor in the system, from a technical perspective, not possible to distinguish between a guarantor and co-debtor in the legacy system. However, pre-acquisition BG Bank had established manual procedures to handle the vast majority of the inherent weaknesses in the legacy system.

From a data perspective these systems inhibited certain data quality issues impacting the accuracy of debt. These inherent issues were migrated into DCS when existing customer cases were transferred to DCS in 2004. These systemic data flaws only impact BG Bank-cases from before 2004 as result of the one-off migration. However, the cases from that migration may still be affected by the legacy inhibited data quality issues.

Once the data from BG Bank was transferred into DCS all debtors, co-debtors and guarantors were treated alike, and it was not possible to link co-debtors or a guarantor to the guaranteed debt within DCS.

How has root cause 3 impacted the customers?

The Bank may have pursued to collect the full debt from each of the debtors, co-debtors and guarantors. The Bank may have collected the same debt more than once from each guarantor, co-debtor as well as the principal debtor.

- E.g. in the absence of a manual adjustment in DCS, this meant that if a settlement agreement had been agreed with the debtor, attempts would still have been made to collect the full amount from the guarantor and/or the co-debtor.

2.4 Root cause 4: Co-debtors charged full principal

Affected systems: DCS

Root cause 4 is a result of an incorrect one-off migration in 2004.

Prior to the implementing DCS it was due to the legacy system limitations necessary to open separate accounts for the principal debtor and the related guarantor(s) (where applicable) each account reflecting the full debt as being owed.

The full debt was consequently recorded on more than one account.

Procedures required debtor accounts to be adjusted manually following debtor payments, accrued interest, costs etc. A similar adjustment would then need be made to the accounts of any co-debtors or guarantors.

When existing accounts were transferred into the DCS, guarantors and co-debtors became untraceable. The effect was that if a debtor made a payment of debt or entered into a settlement agreement, a corresponding adjustment would not be made on the account of the relevant guarantor and/or co-debtor.

How has root cause 4 impacted the customers?

The Bank may have collected the same debt more than once from each guarantor, co-debtor as well as the principal debtor.

- E.g. one customer may already have repaid the debt in full, but the now non-existing debt is still registered owed with the co-debtor and/or guarantor.

Additional issues

Furthermore, during the course of Project Data Quality and Programme Athens, the Bank has identified certain actual and potential additional issues. Information about these issues is set out in Appendix 2.5. However, it should be noted that the full extent of these issues and the number of affected customers is subject to further investigation and needs to be further clarified. Accordingly, the customers that may be impacted by the actual and potential issues listed in Appendix 2.5 are not included in the numbers and calculations set out in this document. Investigations into these matters are ongoing and the Bank will take appropriate remediating actions.

QUESTION 3: HOW DID THE BANK HANDLE THE INFORMATION ON THE IDENTIFIED ERRORS, INCLUDING WHICH MEASURES THAT WERE IMPLEMENTED AND WHEN AS WELL AS HOW THE BANK WILL AVOID NEW ERRORS GOING FORWARD?

We note that there is some overlap between question 3 and questions 4 in respect of the measures the Bank has implemented upon becoming aware of the system flaws.

We have in response to this question 3 focused on the remediation project established in the period following the ORIS notice and the governance framework established in connection with Programme Athens.

We refer to the response to question 4 for a list of the various measures and initiatives that were taken when it became clear to the executive leadership team that the data flaws were more systematic and had a more severe impact than what had previously been the understanding.

3.1 Measures and initiatives taken

Following the internal ORIS notice of 24 May 2019, an operation task force consisting of team leads and local Subject Matter Experts was created under the project name "Data Quality Project", as mentioned above.

In parallel Group Risk Management and Compliance conducted a number of workshops to deep dive into the issue to further understand the complexities in the case. The findings were handed over to Plesner law firm who was engaged to perform an external legal investigation to identify the main root causes that caused Danske Bank to collect debt on an unjustified basis.

Further, several precautionary measures were also taken around this time to mitigate against the risk of wrongful collection of debt. Please refer to question 4 for further information.

On 27 September 2019, the Bank instructed Plesner to commence investigations of the data flaws and the potential issues and implications resulting from the data flaws as well as to assist with the remediation project.

On 24 October 2019, Plesner presented its preliminary findings and accounted for certain potential issues to the Data Quality Programme. The presentation from the conference call is enclosed as appendix 3.3. Based on the preliminary findings and identified possible issues, Plesner recommended further analysis to be carried out and it was agreed that the identified potential system flaws should be investigated further, and in particular that it should be verified that actual customer cases in DCS were actually impacted by the potential issues and to which extent. Plesner's subsequent work resulted in particular in the two memoranda explaining the identified system flaws enclosed as appendix 2.1 and appendix 2.3.

As a result of the Plesner findings presented to the ELT on 29 October 2019, it became clear to the ELT that the data flaws were more systematic and had a more severe impact than what had previously been the

understanding. Because of the new understanding of the severity of the issue, an updated notification was made to the DFSA two days later, on 31 October 2019.

Programme Athens was established on 4 November 2019 to create a formal governance framework around the project due to the severity of the issue now identified. Please refer to appendix 3.4 for an overview of the governance structure established.

On 11 November 2019, the Bank engaged EY to assist with Programme Athens and to provide the Bank with an analysis and verification of the system flaws identified by Plesner. Further, EY assisted in quantifying the impact of the potential flaws - both in terms of numbers of customers impacted but all in terms of economic impact.

QUESTION 4: HOW DID THE BANK ENSURE THAT SIMILAR WRONGFUL COLLECTIONS NO LONGER COULD TAKE PLACE FROM THE POINT IN TIME THE ERRORS WERE IDENTIFIED?

In addition to the remediation project commenced following the ORIS notice, the Bank implemented the following measures and initiatives:

4.1 Introduction of new manual controls regarding recalculations

On 17 June 2019 it was decided as mitigating actions to introduce the following new manual controls:

1) no new debt collection cases with effect from that date was to be initiated without a manual calculation being done before. Accordingly, all new cases after this date should be processed according to the updated Standard Operating Procedure that takes into account the remediation of the key issues;

2) no new cases were to be brought to court without a prior recalculation having been made; and

3) no ongoing cases (i.e. cases already in the DCS before 17 June 2019), would be finally closed by the Bank, e.g. in case of a request for an extraordinary repayment, without the case being manually recalculated to ensure the customer had not paid the Bank more than the Bank was owed.

4.2 Correction team put in place

The new requirement for manual controls resulted in an increased work burden. A corrections team was therefore set in place on 17 June 2019 to correct data on all new cases. The original team of 4 employees was in the following period expanded by 21 additional employees to further accelerate the recalculation process. Employees of EY were also engaged to assist with the recalculations.

As of 9 September 2020 a total number of 6,250 cases have been recalculated by the corrections team.

4.3 DCS programming correction

In July 2019 an amendment to the coding of DCS was made to ensure that dunning fees were no longer inserted in a data field within the DCS that has the correct state of limitation period. This was done to prevent this system flaw resulting in wrongful debt collection for new cases.

4.4 Withdrawal of live court cases

In addition to the new manual control to stop new cases being brought to court before a recalculation, it was on 17 December 2019 also decided to withdraw or recalculate/correct all live court cases, including debt relief cases, private and business estate and bankruptcy court cases. The Correction Team managed to recalculate most of the live cases and all cases that were live and were not settled by the court were withdrawn from the courts in February 2020.

4.5 Decision to compensate customers

It was decided by the Steering Committee to compensate all customers for their losses resulting from the identified root causes. Please refer to the response to question 7 for further information on the number of customers currently compensated and the current plan for further compensation pay-outs.

4.6 Decision to offer all customers to pause repayment of debt

To further minimise the risk of overcollection of debt, the Bank has decided to suspend approximately 17,000 customers' debt collection cases until they have been recalculated as part of the ongoing efforts to remediate the identified errors in the Bank's debt collection system.

These are the cases in which more than 60% of the principal amount has been repaid for which reason there is a higher risk that overcollection will take place before the cases are reviewed. The collection will be resumed when each case has been reviewed and potential errors corrected. Furthermore, interest will not accrue while collection is suspended.

Collection will continue for the 35,000 customers who have started repayment but paid less than 60% of the principal amount and the risk of over collection therefore is very low. Despite continued collection, interest will also not accrue in these cases until they have been reviewed.

To provide full flexibility, customers whose repayment has been suspended can choose to continue to repay their debt. Likewise, in cases where collection as a rule continues, customers can choose to suspend payments until recalculation has been made.

The measures will take effect by the end of this month.

4.7 Plan to introduce further technical safeguards and improvements

Currently, there is an IT implementation plan in motion, which includes a number of technical safeguards and improvements, to the implicated IT systems in order enhance existing and set up additional checks and controls.

4.8 Assessment of calculations in DCS and PF

Subsequent to system improvements being implemented, the two systems, DCS and PF, were assessed by EY and confirmed to calculate properly based on correct data input and utilization of the functionality.

4.9 Forward looking measure - New IT system purchased

The Bank had already before Programme Athens taken steps to purchase a new IT-system to replace DCS. The Bank has now purchased a new system that is planned to replace DCS.

QUESTION 5: HOW MANY CUSTOMERS ARE AFFECTED BY THE ERRORS?

As set out above, there are two separate debt collection systems that have been impacted by the four root causes identified, namely the DCS and the PF systems. Most of the affected customers have either been processed by the DCS or the PF system, however, a minority of the customers were processed by both systems. This answer contains the Bank's current estimates of the total number of impacted customers across both systems.

Please note that these answers are limited to customers that have been impacted by one or more of the root causes. It does not seek to capture the number of customers that may have been impacted the additional issues, as described in Appendix 2.5, that the Bank became aware during the analysis of the root causes.

Reference is also made to the EY-Report in appendix 2.4.

5.1 Total number of potential affected customers

The total number of potential impacted customers across both the DCS and the PF systems, and which are at risk of potentially having made overpayments, are 106,000. Please refer to *Figure 1* below for illustrative purposes.

As a starting point a total of 402,000 customers (approximately 600,000 costumer accounts), which includes both private and commercial customers, have been processed by both DCS and PF systems. This total number includes both cases that are still open in DCS, as well as cases that have been closed (because the debt has been repaid or otherwise closed by Danske Bank) in the period in between 2004 and today.

Of the 402,000 total customers, 333,000 were processed in DCS, 49,000 were processed by the PF system, and the remaining 20,000 were processed by both systems.

Following the cohort set out below, a total of 106,000 customers remain as possibly being affected by the errors and are at risk of making, or having made, overpayments on their debt. For clarity, please note that this includes both customers who would receive a redress amount following reconciliation of their case, as well as customers where the redress will be offset in other debt held with Danske Bank.

5.2 Cohort

Customers in other jurisdictions

Of the 333,000 customers that were exclusively processed by DCS, 152,000 customers belonged to debt portfolios in other jurisdictions (including Norway, Sweden, Finland and the UK). As DCS is used by the Bank in other countries as well as Denmark, an internal investigation was performed to confirm whether the identified root causes have affected customers subject to debt collection procedures in other countries. A combination of mitigating factors, including manual reconciliation, implemented software solutions and national rules of limitation has meant that the system flaws identified have only impacted customers in Denmark. The PF system was not used for processing customers in countries outside Denmark.

Customers that have not made any payments

A total of 105,000 customers of the remaining customers have not made any payments to the debt entering DCS / PF, i.e. no payments on either principal, fees and interest prior to DCS and PF. Thus, these customers are not in scope of potential monetary corrections.

Customers active less than 3 years

A total of 24,000 customers have only been active for less than 2.5 years in the case of DCS, and 3 years in the case of the PF system and were not migrated into DCS or the PF system from a legacy debt collection system. These customers will not be at risk of root cause 1 and having paid time-barred interest, costs or principal amounts as the statutory period of limitation is 3 year for interest and costs and 10 years for principal amounts and costs awarded by the court.

Customers not affected by root causes

Finally, a total of 15,000 customer cases have, through random sampling, been confirmed as being processed correctly by both the DCS and the PF system. Some cases enter DCS with the interest correctly segregated from the principal amount, unlike those otherwise observed as a result of root cause 1 where interest is incorrectly aggregated with the principal amount.

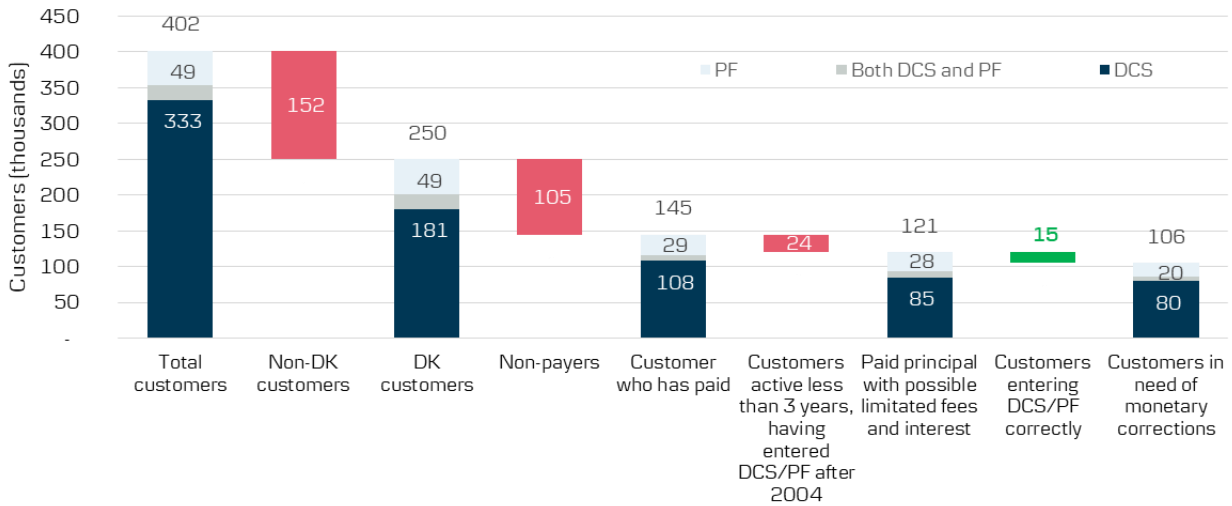

Figure 1 Customer cohort design - customers in scope of potential monetary corrections

5.3 Estimated number of customers in scope for redress

We have assessed 17,000 customers and have identified 900 customers where compensation was due. Based on these results we have modelled the remaining group of customers and currently estimate this will mean 10,000 – 15,000 customers may be economically affected.

5.4 Typical range of redress amount

The typical amount of compensation, either through set-off in other debt or monetary pay-outs, is in the range of DKK 1,000-2,000, however, pay-outs can in some cases be much higher. However, the Bank recognises that there are customers, especially in the PF system, that are entitled to a relatively higher amount of compensation and there will also be customers that only are entitled to smaller amounts.

5.5 Additional cases for correction

In addition, a number of customers with no financial impact (i.e. non-payers and customers active less than 3 years) will have their cases recalculated.

QUESTION 6: HOW HAS THE BANK HANDLED THE AFFECTED CUSTOMERS, INCLUDING HOW COMPENSATION IS DETERMINED AND CALCULATION FOR THE INDIVIDUAL CUSTOMER, AND WHICH INFORMATION IS PROVIDED TO THE CUSTOMERS ON ERRORS AND CALCULATIONS?

6.1 How has the Bank handled the affected customers?

The systemic data flaws that potentially have affected the customers have been segmented into three main customer groups:

i. Customers with debt incorrectly registered in the systems, but have not made any repayments
ii. Customers subject to incorrect collection of debt, however the over-collection can be offset in the customers' outstanding debt
iii. Customers subject to incorrect collection of debt that are eligible to receive compensation

In respect of ii and iii the Bank has adopted the following remediation and compensation principles:

- Put the customer in a direct financial position[1] as if these errors never happened
- Provide redress to customers based on all available data
- Loss calculation will be based on a model for direct losses
- Establish a process for handling of cases involving indirect losses
- The Bank will compensate customers for any tax related losses

Out of the 106,000 potentially affected customers in scope for compensation, the Bank has to date investigated 17,000 customer cases by recalculating the individual customer's debt and comparing the recalculated total with data registered in DCS (for further details please refer to part 7 below). The recalculation of the 17,000 customer cases identified over-collection in 930 customer cases, and these customers will receive redress amount and/or the over-collection will be offset in the customer's outstanding debt, if any.

6.2 How is compensation determined and calculated for the individual customer?

The recalculation of customer debt is performed using a data model developed by EY on behalf of the Bank, which separates the total debt into interests, fees and principal, and applies correct limitation periods for each posting in the history of the debtor ledger going back to the first date that the payment obligation for the loan became repayable.

The model follows the remediation principle of estimating in benefit of the customer (conservative estimate of over-collection) when underlying data quality does not allow a more precise estimate.

The purpose of the model is to calculate the redress amounts owed to customers impacted by root causes 1 and 2 by 1) re-creating the balances originally entered into DCS, but adjusting for interests and fees that were incorrectly aggregated together with the principal amount (addressing root cause 1), and 2) correcting the applied periods of limitation (adjusting for root cause 2). Once the DCS entry balances have been corrected, the data model re-calculates the balances owed by the customer today, taking into account all repayments made by the customer; interests correctly accrued on the various elements making up the total debt; all applicable limitation periods that may have been triggered over the course of the loan; and acknowledged debt and/or potential corrections made during the lifetime of the loan (such as when a debtor is granted debt relief). Ultimately, the output generated by the data model will be the difference between what the balances are in DCS and what the balances should have been in DCS if they were not impacted by the four root causes. The difference between the actual balances in DCS and the balances recalculated by the data model is considered to be that amount over-collected from the customer by Danske Bank.

[1] Customers who have suffered a financial loss as a result of the four root causes will be offered the opportunity to provide documentation of other potential consequential losses incurred

Customers that are found to have made overpayments will receive compensation equal to the difference between what they should have paid on their outstanding debt and what they have actually paid, plus an added interest compensation for the period during which the money should have been at the customer's disposal.

Interest compensation is calculated from the date of the first over-collection on the loan by the customer and up until the date the redress amount is paid to the customer. The date of the first over-collection is chosen as the starting date for calculation of the interest compensation as this is the first date on which overcollection occurred, and hence from when the customer's claim against Danske Bank originates.

Interest compensation is calculated using the total amount of overpayment made. In accordance with Section 5 of the Danish Interest Act the rate for calculating the interest compensation will be the official lending rate (stated bi-annually by Danmarks Nationalbank) plus a surcharge of either 7% or 8% p.a. (in line with the definition of "Morarenten"). The choice between 7% and 8% depends on when the customers claim against the Bank arose, here defined as when the first repayment on the debt occurred. Customers making their first repayment before 1 March 2013 will receive a surcharge of 7%, whereas customers making their first repayment the first after 1 March 2013 receive a surcharge of 8%.

In its current version, the data model is not capable of capturing customers that have been potentially subject to overpayments as a result of root causes 3 and 4. The reason why root cause 3 and 4 have not yet been incorporated into the model is due to the complex nature of a redress calculation for customers due to reliance on physical case files. Work remains ongoing to both identify and resolve the challenges in respect of recalculating the debt of customers also impacted by root causes 3 and 4. Currently, customers that are at risk of having made overpayments as a result of root cause 3 and 4 are manually investigated and reviewed, and where necessary this exercise will be conducted jointly with the customers.

6.3 Which information is provided to the customers on errors and calculations?

All customers identified as having been affected by the root causes will be contacted directly by Danske Bank to disclose exactly what has gone wrong, what Danske Bank are doing to ensure that the customer receives proper redress and what the customer can expect to happen next.

QUESTION 7: HOW MANY CUSTOMERS HAVE PER 1 SEPTEMBER 2020 RECEIVED COMPENSATION AND HOW MANY CUSTOMERS DOES THE BANK EXPECT TO PAY COMPENSATION TO, AND WHEN IT IS EXPECTED THAT ALL CUSTOMERS ARE COMPENSATED?

7.1 How many customers have per 1 September 2020 received compensation

As of 1 September 2020, 326 customers had received a compensation payment. The total value of compensation paid to these customers is DKK 395,638. These customers have been reviewed from a segment of 17,000 cases (all of which were opened in DCS post 2009). We are now in the phase of remediation and it will further accelerate in the rest of 2020.

Breakdown of compensation amount:

- 25 customers have received more than DKK 2,000
- 70 customers have received more than DKK 1,000 (the 25 are included)
- 256 customers have received less than DKK 1,000

7.2 How many customers does the bank expect to pay compensation to?

At this point in time, the Bank estimates that 10.000 – 15.000 customers are entitled to compensation by way of redress amount or reduction of their outstanding debt

7.3. When it is expected that all customers are compensated?

The Bank has devised a plan for remediating all affected customers. Danske Bank has committed to correct and compensate all customers no later 1 July 2021.

II. DFSA REQUEST TO RECEIVE RELEVANT PARTS OF THE BANK'S INTERNAL INVESTIGATIONS AND THE INVESTIGATION CARRIED OUT BY THE BANK'S COMPLIANCE FUNCTION AS WELL AS EXTERNAL LAWYERS.

The DFSA refers in the request to "relevant" parts of the various investigations. The Bank has interpreted this to the effect that the Danish FSA would like to receive those parts of the investigation reports that

(i) are relevant in the context of the Danish FSA's investigation as set out in the 31 August letter: the bank's handling of the errors found in the bank's debt collection system in relation to the bank's obligations to act fairly and loyally toward its customers (see Section 43 of the Financial Business Act and the Executive Order on Good Practice for Financial Undertakings), and

(ii) set out the facts and legal assessments pertaining to the matters that the Danish FSA's above questions relate to.

8.1 Internal investigations

EY has been engaged to estimate and execute the compensation of customers affected by the identified systemic data flaws within GRDM.

The Bank has enclosed the following documents with this letter:

- Draft - EY-Report: Data analysis and considerations within debt collection of 1 July 2020, appendix 2.4

8.2 External lawyers' investigations

As mentioned above, Plesner Law Firm has been engaged to analyse the system flaws, identify relevant risks and to assist with the remediation of the system flaws.

The Bank has enclosed the following documents with this letter:

- Draft System and Process Flaw Document of 28 November 2019, appendix 2.1
- Workshop presentation of 26 November 2019, appendix 2.2
- Memorandum on main root causes and Danske Banks obligation to compensate customers, appendix 2.3
- Presentation from conference call on 24 October 2019, appendix 2.4

--oo0oo--

Yours sincerely

Frans Woelders
Chief Operating Officer

Rob de Ridder
Head of Customer Service Delivery

APPENDICES

2.1	Draft System and Process Flaws Document of 28 November 2019
2.2	Workshop presentation of 26 November 2019
2.3	Draft memorandum on main root causes and Danske Banks obligation to compensate customers of 13 December 2019
2.4	EY-Report: Data analysis and considerations within debt collection of 1 July 2020
2.5	List of potential derived or correlated issues
3.3	Presentation from conference call on 24 October 2019
3.4	Overview of the governance structure of Programme Athens

Early draft of 28 November 2019
The descriptions in this document are not finally verified
Certain parts are currently in Danish to speed up the verification process

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PROJECT COLLECTION
DESCRIPTION OF THE KEY SYSTEM AND PROCESS FLAWS IN DCS AND CERTAIN OTHER SYSTEMS

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PROJECT COLLECTION
DESCRIPTION OF THE KEY SYSTEM AND PROCESS FLAWS IN DCS AND CERTAIN OTHER SYSTEMS

1 INTRODUCTION

We have been instructed by Danske Bank A/S ("Danske Bank") to assist with certain data quality issues identified within the debt collection systems in Group Recovery & Debt Management ("GRDM"), which have resulted in cases of collection of time-barred debt.

The main scope of our work has been:

- to understand and describe the key system and process flaws that were identified in the systems and associated processes;
- to assess and describe the key legal and regulatory risks resulting from the identified system and process flaws; and
- to assist Danske Bank in identifying possible ways of solving the issues resulting from the system and process flaws.

In order to deliver on these tasks, we have performed a detailed fact-finding exercise involving a number of interviews of relevant members of staff, participated in meetings held by GRDM's 'Correction Team', and observed how case officers navigate and use the debt collection systems. We have not made an analysis of how the relevant IT systems are coded. The descriptions contained in this document are therefore based on the information we have received about how the relevant debt collection systems work and examples from actual cases in the systems.

[Comment: Section about the verification of the description that has been carried out by GRDM to be inserted here. We are also working on including examples for all the system flaws to make it possible to see an actual case from DCS in which the specific flaw has occurred.]

The purpose of this document is to describe the key system and data flaws in the Debt Collection System ("DCS") and in the historic debt collection systems from which data in the DCS is based. We note that some of the flaws described in this document remain unresolved or have only recently been resolved, whilst some of the historic flaws only transpired in connection with the migration of data into the DCS in 2004 or occurred in the systems that preceded the DCS. The end result, therefore, is that a high number of customers in GRMD - both current and historic - may therefore be impacted by the flaws.

We have also included a section setting out a high-level timeline of certain events that are relevant either for the purposes of understanding some of the system and processing flaws or to understand the scope or impact of the flaws.

Furthermore, we have also included a high-level summary of the applicable rules on limitation periods that have applied during the relevant period. As most of the data flaws relate to incorrect handling of the statutory limitation periods applicable to the various elements that make up the outstanding debt (interest, collection costs and the principal amount of the loan) it is relevant to have an understanding of these rules and how they changed in 2008.

The varying elements (interest, costs, and principal amount) that make up an outstanding debt need to be tracked separately within debt collection systems in order for the systems to be able to apply the applicable varying time-barring periods. Accordingly, the debt collection systems are meant to break up an outstanding debt into different data fields, each representing an element of the outstanding debt, and each with their own varying periods of limitation.

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For the purposes of understanding some of the system and process flaws described below, it is necessary to understand that when a debt is 'written-off', from an accounting perspective, it is still tracked and considered to be owed by the customer, and attempts are made by Danske Bank to collect such outstanding debt.

This document is structured as follows: In Part 2 immediately below we have set out the timeline of main events that have occurred in the relevant time period. In Part 3 we have set out the high-level summary of the relevant statute of limitation rules. Part 4 contains our description of the system and process flaws within DCS and Part 5 contains our description of the system and process flaws pre-dating DCS.

2 TIMELINE OF MAIN EVENTS

This section contains a chronological timeline of what we understand to be the key events in the process leading up to the issues Danske Bank is facing today in respect of the system and process flaws. The list does not include events that may be relevant from an accountability perspective.

2.1 *Pre-2004: Legacy Danske Bank systems*

BG Bank was formed in a merger in 1996 between Bikuben and Girobank. During 1999 the debt collection portfolio of Girobank was transferred / converted to the recovery system in Bikuben.

To our knowledge the collection system in Bikuben can be accessed back to approx. 1984. The recovery system from Girobanken's 'Jurix' cannot be accessed.

In 2001 Danske Bank acquired BG Bank, including BG Banks debt collection portfolio and department.

Initially BG Bank's debt collection department operated independently from a number of other decentralised Danske Bank debt collection departments.

It can be assumed that the majority of the older collection cases originating in BG-Bank and the Danske Bank legacy collection system were incorrectly registered. These issues were further exacerbated, through the compounding of issues, when the cases were subsequently integrated into DCS, cf. below.

2.2 *2004: Introducing DCS*

In 2004 a new debt collection system (DCS) was implemented in an effort to centralise debt collection processes across Danske Bank. Data on all outstanding defaulted debt was therefore migrated into DCS.

There appears to have been some knowledge of the existing issues within the earlier decentralised systems, which in part led to the introduction of DCS, which in turn was meant to be a new and improved system. Attempts to implement the new system spanned over a period of time, and we understand that this is due to the fact that already at this stage it was known that DCS had some inherent issues that needed to be fixed prior to "go-live". We have been informed that the "go-live" date was pushed back once, but that the management decided to implement the DCS despite awareness of at least some of the system and process flaws because it was not considered an option to push the "go-live" date a second time. It remains unclear to us, what efforts were made to rectify the issues within DCS before implementing, or whether the full extent of the issues known today, were also known then.

All existing cases, irrespective of where they originated, were transferred to DCS on 27 September 2004. All new cases following this date were opened directly within DCS (except from cases originating in the PF-system).

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It is relevant to note already now, that rather than flaws in how DCS treats and calculates outstanding debt, the key problems relate to the point of data entry into DCS. In other words, when an existing, or a new case, was or is transferred to, or created, in DCS.

2.3 *2008: Change in statute of limitations*

In 2008, new rules on the statute of limitations were implemented in Denmark and going forward principal amounts on loans have in general a time-barring period of 10 years and interest and costs carry a time-barring period of 3 years. Prior to this, the time-barring periods were 20 years and 5 years, respectively. Moreover, the new rules made it much more difficult to suspend the time-barring period. In order to suspend the time-barring period a large portion of the claims was sent to external debt collection agencies.

2.4 *2009: Correction team*

Perhaps in the knowledge that DCS contained some inherent data quality issues, and in conjunction with the new statute of limitations, a Correction Team was established in 2009 to manually correct the cases in DCS on a continuous basis. However, in many instances this was done without the case handler being able to reconcile the most recent calculation of debt owed against an original account statement. By inference, therefore, some but not all cases that underwent correction, were not corrected to the accurate amount. The Correction Team managed to review some, but far from all cases in DCS, before it was disbanded in around 2011. Plesner does not know how many cases were corrected at this stage, or the extent to which these cases were corrected accurately.

2.5 *2009: LEAN focus*

In 2009 Danske Bank launched an initiative known as LEAN, which aimed to streamline existing business processes in an attempt to become more efficient in case handling. It is not currently clear to us exactly when the focus on LEAN ended but it is our understanding that the strong focus on LEAN lasted for a longer period. In the case of DCS, the focus on LEAN meant that GRDM was instructed to only rely on the data as presented by DCS when performing debt collection (such as when entering into settlement agreements, seeking court orders etc.) and not to spend time looking at physical files. Previously greater efforts were made to ensure that amounts reflected in DCS were reconciled against a previous account statement or other evidence on file for that customer, e.g. by reviewing the physical customer file that contained information on the correct principal amount owed by the customer etc. It is our impression that the focus on LEAN further exacerbated some of the issues present today, as presumably some of the case errors would have been caught earlier.

2.6 *Lithuania outsourcing*

Danske Bank operates an off-shore office in Lithuania that mainly performs operations and other administrative tasks. For a period of time since 2004, staff in Lithuania conducted case handling on behalf of GRDM using DCS. The focus on LEAN meant that staff in Lithuania were incentivised to produce results over quality in their case handling. Further to LEAN, this may have meant collection of debt has occurred without any controls or reconciliation to ensure that the data produced by DCS was correct.

2.7 *2019: Operational Risk Event*

On 24 May 2019 an ORIS was escalated internally at Danske Bank confirming that it had discovered that DCS suffered from underlying data quality issues, and that the inherent issues with the debt collection processes were not merely manual errors, as apparently previously thought. The Danish FSA was notified on 6 June 2019.

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2.8 *2019: Correction Team*

The Correction Team was re-established in August 2019, following the ORIS, with a view to manually review and correct all cases in DCS that had been mishandled. We have been informed by members of the Correction Team that some cases can be dealt with relatively quickly, whilst other cases can take days to recalculate and complete - and in some cases it might not even be possible to perform a recalculation due to the lack of a physical customer file.

3 GENERAL DESCRIPTION STATUTE OF LIMITATIONS

When describing the applicable statute of limitation rules, it is relevant to distinguish between the following three time periods:

1) The period before 1 January 2008. In this period the time-barring rules were governed by two limitation acts covering loans, fees and interest (a) Danske Lov 5-14-4 ("DL"), and (b) the 1908 Act of Limitation (Act No. 274 of 22 December 1908) (the "1908 Act").

2) The period from 1 January 2008. In this period the Act of Limitation (Act No. 522 of 6 June 2007) (the "2008 Act") governed, and continues to govern, the time-barring rules in respect of loans, fees and interest.

3) The transitional period for obligations incurred before 1 January 2008 that were unresolved on 1 January 2008 and therefore became subject to the specific transitional rules in the 2008 Act.

The purpose of the 2008 Act was to replace DL and the 1908 Act and the 2008 Act remains the applicable legal framework.

3.1 Statute of limitation

3.1.1 *Loans*

Before 1 January 2008

Prior to the 2008 act, the limitation period on loans was regulated by DL. Under the DL, the limitation period was twenty (20) years from the *establishment of the claim*, e.g. the establishment of a loan. Such limitation could be interrupted by either (i) the debtor's perception of the claim, ii) by the creditor reminding the debtor about the obligation, (iii) a notice to an estate or iv) request of appropriation (*anmodning om udlæg*). If the limitation period was interrupted before the loan became time-barred, a new limitation period would begin.

From (and including) 1 January 2008

Under the 2008 Act, the limitation period for loans is ten (10) years *from the due date of the loan*. The statute of limitations was thereby changed from twenty (20) years to ten (10) years. The new legal requirements for interrupting the statute of limitation period, under the 2008 Act, are to either (i) obtain the acknowledgment of the obligation by the debtor or (ii) by taking legal action against the debtor.

3.1.2 *Interest and fees*

Before 1 January 2008

Prior to the 2008 act, the limitation period on interest and fees were regulated by the 1908 Act. Claims on interest, which was due at specified intervals but not considered as repayment of a debt owed, carried a statute of limitation period of five (5) years *from the due date*. Claims on interest become time-barred either independently or if the principal amount became time-barred.

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From (and including) 1 January 2008

Under the 2008 Act, interest and fees will as a general rule become time-barred after three (3) years *from the due date*.

However, it should be noted if claims on interest and/or fees are attributed within the maximum of an overdraft facility (*kassekredit*), the limitation period is ten (10) years *from the due date*.

Moreover, if a debtor acknowledges the debt on interest and fees, wholly or partially, the limitation period will be 10 years *from the due date*.

3.1.3 *Transitional period*

When the 2008 Act entered into force on 1 January 2008, the general transitional rule was that the new 2008 Act applied to previously established obligations, which were not timed-barred under the DL or the 1908 Act before the date of entry into force.

The transitional rules were relevant if:

- the applicable rules led too time-barring after 1 January 2008; and
- the 2008 Act led to time-barring before 1 January 2011.

In order to avoid unintended consequences, a transitional period was introduced in the 3-year period, after which time-barring only occurred if it followed from the previous as well as the newly applicable rules - and if so the latest limitation date of the two possible limitation dates should apply as the limitation date in this transitional period.

The transitional rules imply that if a reminder was sent to the debtor prior to 1 January 2008 the interruption will have effect under the 2008 Act (even though such an interruption cannot be made under the 2008 Act). A reminder sent before 1 January 2008 in relation to a claim, which according to the 2008 Act is subject to a limitation period of ten (10) or tree (3) years, triggers a limitation period of respectively ten (10) or tree (3) years for the claims (and not the twenty (20) and five (5) years known under DL and the 1908 Act.)

For claims established on 1 January 2008, or later, the transitional rules will not be relevant.

3.2 Overview of relevant limitation periods

We have in annex 1 to this document set out an overview of the various limitation periods relevant to the debt portfolio. Any reference to Danske Bank shall be read as a reference to any previous lender having taken such action or has been unknown to the relevant fact.

4 DESCRIPTION OF KEY SYSTEM AND PROCESS FLAWS WITHIN DCS

4.1 Introduktion til DCS-systemet

DCS er det centrale gældsinddrivelsessystem i Danske Bank.

Når et udestående gældsforhold overdrages fra en filial til GRDM, flyttes kontoen samt ansvaret for at inddrive gælden samtidigt til DCS og GRDM.

De identificerede system- og procesfejl er i al væsentlighed resultat af flere forskellige "data-entry" flaws. Som konsekvens af disse data-entry flaws vil alle senere løbende beregninger forudsætningsvist være forkerte i et eller andet omfang. En fejl på registreringstidspunktet vil således påvirke restgældens størrelse, hvis ikke sådanne entry-flaws manuelt over tid korrigeres.

De identificerede fejl er proces/systembundne, og den følgende beskrivelse skal dels illustrere datastrømmene, når en sag oprettes i DCS, og dels illustrere hvor og hvorfor fejlene opstår.

I DCS opdeles den udestående gæld i seks forskellige datafelter. Differentieringen mellem disse datafelter er nødvendig bl.a. af hensyn til fremtidig beregning af renter, overvågning, kontrol og afbrydelse af forskellige forældelsestidspunkter, samt for indberetning af relevante rentefradrag over for Skattestyrelsen.

Figur 1: Datafelter i DCS

Felt nr.	Beskrivelse	Forældelsesregel i DCS
1	**Omkostninger** *F.eks. tilkendte sagsomkostninger. Datafeltet er typisk tomt, når sagen oprettes i DCS.*	10 år
2	**Beregnet ikke betalte renter** *Renter påløbet i filialen - der ikke er betalt og før sagen oprettes i DCS.*	3 år
3	**Hovedstol** *Resthovedstol*	10 år
4	**Anerkendte renter** *Renter påløbet efter sagens oprettelse i DCS, og som kunden har anerkendt ved f.eks. indgåelse af frivilligt forlig. Renterne fra datafelterne 5 og 6 overføres til dette datafelt efter en 'anerkendelse'.*	10 år
5	**Løbende renter** *Totale renter påløbet efter sagens oprettelse i DCS.*	3 år
6	**Løbende renter i år** *Renter påløbet i indeværende år.*	3 år

Når en debitor foretager et afdrag på et udestående gældsbeløb er der etableret følgende dækningsrækkefølge i DCS (i forhold til datafelterne): 1, 2, 5, 4 og 3.

Omvendt hvis der foretages modregning er dækningsrækkefølgen: 1, 2, 3, 4 og 5.

[Beskrivende tekst om felt 6.]

4.2 Hvordan DCS formentlig var tiltænkt at fungere

Følgende afsnit viser alene, hvordan DCS formentlig var tiltænkt at fungere med blik på at eksemplificere de fejl, som opstår i DCS. I afsnit 4.3 nedenfor angives således, hvad der rent faktisk sker i DCS.

Når en sag oprettes i DCS registreres hovedstolen som værende resthovedstolen og eventuelle anerkendte renter. Det samlede beløb registreres i datafelt 3.

Datafelterne 5 og 6 anvender beløbene som angivet i datafelterne 2, 3 og 4 til at beregne løbende renter. Renterne i datefelterne 5 og 6 holdes adskilt fra datafelterne 3 og 4, idet forældelsesfristen for disse fordringer er 3 år, hvorimod forældelsesfristen for hovedstolen og anerkendte renter er 10 år.

Opnås en ny dom eller indgås et nyt frivilligt forlig, akkumuleres renterne (datafelterne 5 og 6) og overføres til datafelt 4. Samtidig overføres ethvert beløb i datafelt 2 til datafelt 3, hvorved beløbet betragtes som en del af hovedstolen. Beløbet i datafelt 2 overføres til datafelt 3 - og ikke datafelt 4 - da der allerede er søgt om skattefradrag for renterne i datafelt 2. Danske Bank søger herved at undgå registrering af dobbelt rentefradrag for kunden.

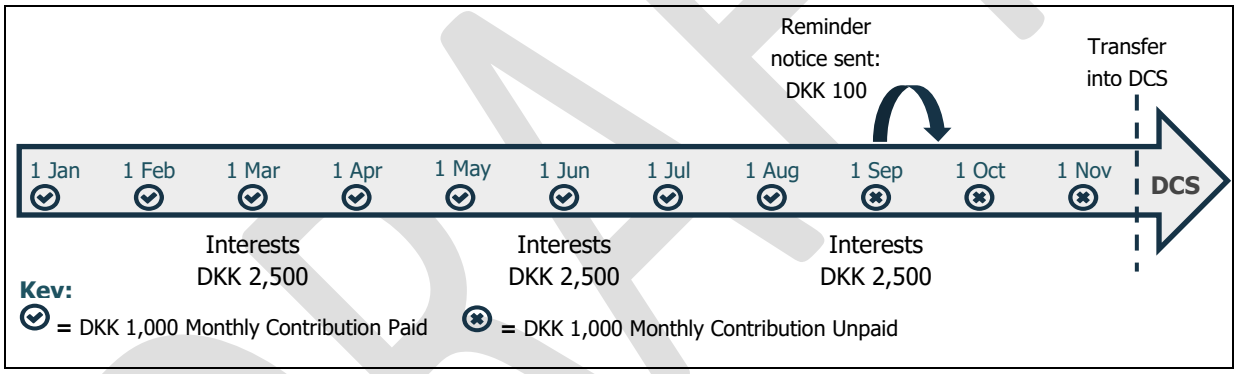
Datafelt 1 indeholder tilkendte omkostninger, der f.eks. tilkendes som led i Danske Banks retslige inddrivelse af et tilgodehavende. Beløbet forbliver i datafelt 1, og rykkes ved en dom eller en forligsaftale ikke til datafelt 3.

4.3 Hvad der faktisk sker i DCS

Bemærk, at følgende beskrivelse og illustrationer er eksempler på de hyppigste fejl, der er identificeret i forbindelse med tilretningsprocessen. Det skal understreges, at vi ikke er bekendt med, hvorvidt sagerne er repræsentative. Der opstår fortsat nye "problemer", hvor der ikke umiddelbart findes en logisk forklaring. F.eks. har vi fået forklaret, at inddrivelsen af krav over for danske kautionister systemmæssigt er oversendt til Norge.

Der er ikke i Danske Bank et fuldstændigt overblik over alle fejl i DCS. Hertil kommer, at der fortsat identificeres fejl, hvis oprindelse ikke umiddelbart lader sig forklare.

Figur 2: Sekvens af begivenheder for et nyt lån i en filial og før sagens oprettelse i DCS



Debitors sidste rettidige betaling blev i ovennævnte eksempel foretaget i august.

Almindeligvis fremsendes 3 rykkere, før en sag overføres til DCS.

4.3.1 *Delvist betalte renter*

Tilskrevne renter dækkes forud for hovedstolen. Ovennævnte scenarie beskriver den fejl i DCS, der opstår, når et afdrag delvist dækker allerede tilskrevne renter. I eksemplet bliver der foretaget to afdrag på DKK 1.000 i hhv. juli og august, der tilsammen dækker DKK 2.000 af en rentetilskrivning på DKK 2.500.

De resterende DKK 500 er fortsat "ubetalte renter" i andet kvartal. De DKK 500 (og eventuelt senere ubetalte renter) burde overføres til datafelt 2 i DCS. Resthovedstolen skal overføres til datafelt 3. Imidlertid overføres de DKK 500 fejlagtigt til datafelt 3 i DCS, og beløbet registreres derved som en del af resthovedstolen. Med andre ord registreres der i dette eksempel DKK 500 for meget i datefelt 3. Eventuelle senere ubetalte renter (f.eks. de renter, der tilskrives i september) overføres korrekt til datafelt 2 i DCS.

DCS-systemet synes ikke at kunne skelne mellem delvist betalte renter og delvist betalte ydelser, hvorfor de behandles på samme måde, hvilket ikke er korrekt.

DRAFT

Ved oprettelsen af sagen i DCS indeholder datafelt 3 således fejlagtigt delvist ubetalte renter, der er påløbet før gælden blev overført til DCS. Sammenlægning af delvist betalte renter og hovedstolen i datafelt 3 indebærer, at DCS anvender forældelsesreglerne for resthovedstolen (10 år) på delvist betalte renter (i vores tilfælde DKK 500). Derfor bliver DKK 500 "markeret" som forældet efter 10 år. Reelt burde renterne forældes efter 3 år.

Denne iboende fejl i DCS-systemet medfører i yderste konsekvens, at Danske Bank ultimativt opkræver et større beløb end den faktiske gæld.

4.3.2 *Behandling af rykkergebyrer*

Forældelsesfristen for rykkergebyrer er i udgangspunktet 3 år.

Rykkergebyrer, der er tilskrevet før sagens oprettelse i DCS, er - siden implementeringen af systemet i 2004 - blevet overført direkte til datafelt 3. Rykkergebyrerne er derfor blevet inkluderet som en del af hovedstolen til beregning af de løbende renter. Rykkergebyrer burde ikke registreres i datafelt 3, men snarere i et selvstændigt datafelt.

Systemopsætningen har på dette punkt i praksis betydet, at sagsbehandlerne skulle foretage en manuel korrektion af hovedstolen, når de relevante gebyrer blev forældet. Denne korrektion skulle foretages 3 gange (én gang for hvert rykkergebyr), idet rykkerne blev sendt på forskellige tidspunkter (typisk med en måneds mellemrum) og derfor også forældes på forskellige tidspunkter.

Denne manuelle sagsbehandling er ikke i alle tilfælde blevet foretaget, og den manuelle korrektion har tillige været fejlbehæftet.

I juli 2019 blev denne fejl systemmæssigt korrigeret, således at ubetalte rykkergebyrer blev adskilt fra hovedstolen. Ubetalte rykkergebyrer overføres på nye sager til datafelt 2. Ændringen i juli 2019 har alene virkning for fremtidige sager, og der er ikke foretaget en automatisk korrektion af de allerede eksisterende sager i DCS. [Det er for nuværende uklart, hvorvidt registreringen i relation til forældelse og indberetning af rentefradrag for kunderne foretages korrekt.]

4.3.3 *Beregning af forældelsesperioden*

Forældelsesfristen for hovedstol, påløbne renter og gebyrer regnes fra forfaldstidspunktet. Imidlertid beregner DCS forældelsesfristen ud fra oprettelsestidspunktet i DCS. Som konsekvens indebærer dette, at man i DCS nødvendigvis ikke kan identificere og kontrollere det korrekte tidspunkt for afbrydelse af forældelse.

Det indebærer, at frivillige forlig eller retsafgørelser i praksis kan indeholde allerede forælde renter, gebyrer og eventuelt hovedstole. Dette gælder navnlig, hvis et frivilligt forlig indgås omkring tidspunktet for forældelsesfristens udløb registreret i DCS. Hertil kommer, at ikke-betalte ydelser under (i hvert fald) gældsbreve selvstændigt forældes. Ikke-betalte ydelser forældes således før den samlede restgælds forældelse.

Såfremt hovedstolen allerede er forældet på tidspunktet forud for indgåelsen af et frivilligt forlig, har Danske Bank fortabt retten til at kræve hovedstol og renter betalt til sig.

4.4 **Praktisk eksempel**

De i punkt 4.3 beskrevne problemstillinger er de primære systemfejl i DCS (foruden de beskrevne data-entry flaws fra BG Bank og "Legacy Danske Bank" i punkt 5).

Correction-teamet gennemgår fortsat nye og gamle sager, og der fremkommer forskellige typer af systemmæssige problemstillinger, hvis nærmere oprindelse ikke umiddelbart kan forklares. Dette illustreres via følgende eksempel, som viser fejl i DCS-systemet, der pt. ikke præcist kan beskrives.

Figur 3: Kontooversigt

DRAFT

Date	Text	Debit	Credit	Balance
08.11.2007	Transport			-91.697,27
11.12.2007	Credit		2.500,00	-89.197,27
31.12.2007	Interest	2.151,96		-91.349,23
31.12.2007	Overdraft Interest	6,16		-91.355,39
03.01.2008	Credit		2.500,00	-88.855,90
14.02.2008	Credit		2.500,00	-86.355,39
04.03.2008	Credit		2.500,00	-83.855,39
31.03.2008	Interest	2.177,78		-86.033,17
31.03.2008	Overdraft Interest	8,61		-86.041,78
07.04.2008	Reminder Notice	100		-86.141,78
22.04.2008	Reminder Notice	100		-86.241,78
10.06.2008	Overdraft Interest	50		-86.291,78
10.06.2008	Overdraft Interest	1.738,22		-88.030,00

*Overtræksrenter er renter tilskrevet efter ubetalte månedlige ydelser.

Den 4. marts 2008 foretog kunden i eksemplet det sidste rettidige afdrag på gælden. På tidspunktet udgjorde gælden samlet DKK 83.855,39. Dette beløb burde rettelig overføres til datafelt 3 i DCS (hvor DKK 200 i rykkergebyrer - fejlagtigt - også blev overført, da sagen er fra før juli 2019, hvor denne fejl blev rettet).

Efter den 4. marts 2008 er der 4 gange tilskrevet renter for samlet DKK 3.974,61. Dette beløb burde være overført til DCS-systemets datafelt 2. I alt udgør det samlede krav DKK 88.030,00.

Uanset ovenstående er alle tilskrevne renter frem til den 22. april 2008 fejlagtigt overført til datafelt 3, og kun renterne tilskrevet den 10. juni 2008 er overført til datafelt 2. Dermed henstår der en urigtig hovedstol på DKK 86.241,78, der er DKK 2.186,39 for højt (ekskl. rykkergebyrer på DKK 200) (beløbet er markeret med gult i både figur 3 og 4).

Renterne registreret i datafelt 3 registreres som konsekvens fejlagtig og ikke som forældet efter 3 år.

Figur 4: Screenshot af sag i DCS

DRAFT

Saldotype: Restgæld
Fra dato: 01.01.1999
Standard liste (Bogføringsdato)
Udvidet liste (Posteringsdato)
Hent
Periode: 22.05.2008-14.12.2018 Saldo pr. 31.12.2018: -83.855,39
Posteringer: 5

Dato	Tekst	Beløb	Saldo	Saldotype
22.05.2008	Udbetaling (System)	-86.241,78	-86.241,78	3
22.05.2008	Indbetaling, korrektion	86.241,78	0,00	3
22.05.2008	Udbetaling, korrektion	-83.855,39	-83.855,39	3

Figur 4 illustrerer tilretningen af sagen. I datafelt 3 burde der have stået DKK 83.855,39 svarende til udeståendet pr. 4. marts 2008.

Figur 5: Screenshot af sag i DCS

Saldotype: Tilskrevet ej betalt rente
Fra dato: 01.01.1999
Standard liste (Bogføringsdato)
Udvidet liste (Posteringsdato)
Hent
Periode: 30.06.2008-30.06.2008 Saldo pr. 31.12.2018: 0,00
Posteringer: 2

Dato	Tekst	Beløb	Saldo	Saldotype
30.06.2008	Rente	-1.788,22	-1.788,22	2
30.06.2008	Rente, forældet	1.788,22	0,00	2

Figur 5 illustrerer den korrekte registrering af renterne tilskrevet den 10. juni 2008 i datafelt 2.

Fejlens opståen kan ikke umiddelbart forklares.

Uanset ovenstående medfører denne iboende fejl i DCS-systemet i yderste konsekvens, at Danske Bank via DCS-systemet ultimativt opkræver et større beløb end den faktiske gæld.

Figur 6*: Illustration DCS-systemets behandling af sagen anvist i figur 3*

Datafelt 1
DKK 0,00

Datafelt 2
DKK 1.788,22 (which includes the two sets of interests incurred on the 10th of June)

Datafelt 3
DKK 86.241,78 (which includes the correct amount of DKK 83.855,39, but also the interest incurred on the 31st of March as well as the two reminder notice costs)

Datafelt 4
N/A

Datafelt 5
N/A

Datafelt 6
N/A

5 HISTORIC ISSUES PRE-DATING DCS

5.1 Legacy Danske Bank systems

5.1.1 Generel introduktion

Forud for DCS-systemet var inddrivelsessystemet internt i Danske Bank decentralt og baseret på følgende tre overordnede konti:

1. **Almindelig konto**
   f.eks. indlån, udlån og kreditter
2. **Inkassokonto**
   Overgang fra filial til inkassoafdelingen
3. **Afskrevet fordringer**
   Uerholdelige fordringer

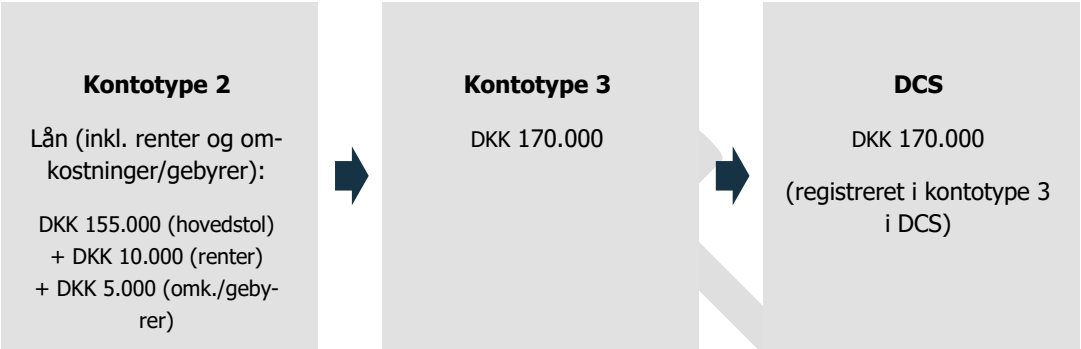
I Danske Banks decentrale gældsinddrivelsesenheder var der ikke etableret en systemmæssig betalingsrækkefølge.

Når en given debitor misligholdte sin betalingsforpligtelse overførtes den misligholdte fordring fra kontotype 1 til kontotype 2, dvs. til "inkassokontoen". Medmindre der med kunden blev indgået et frivilligt forlig eller man i Danske Bank opnåede dom blev fordringen afskrevet, og fordringen blev overført til kontotype 3. Hvis en betalingsforpligtelse efter et frivilligt forlig eller en dom fortsat blev misligholdt blev tilgodehavendet tilsvarende afskrevet og overført til kontotype 3. Kontoen bevarede det samme kontonummer indtil afskrivelsen, hvorefter der blev udfyldt et E-blad, og følgende informationer blev registreret i den fysiske kundemappe:

- Oplysning om gammelt og nyt kontonummer,
- Navn på debitor og meddebitorer,
- Navn på kautionister og deponenter,

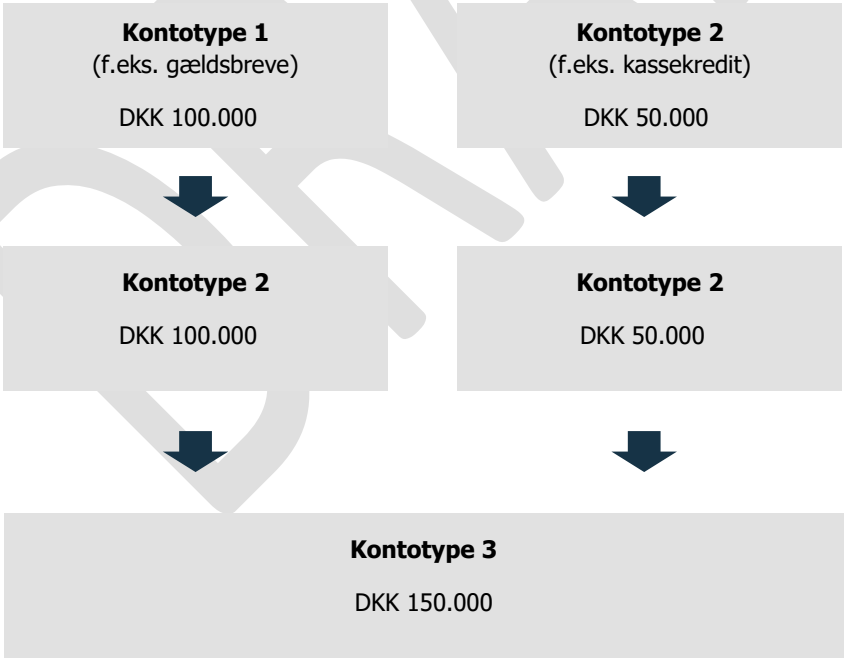
- Retsbehandling, og
- Dato for afskrivning

Registreringsmæssigt var det den samlede saldo på kontotype 2, der blev overført til kontotype 3. Det vil sige, at når en misligholdt fordring blev afskrevet anførtes den samlede saldo som et enkelt beløb i kontotype 3 (inkl. renter, omkostninger, gebyrer m.v.). Illustreres simplificeret nedenfor:



Danske Bank opererede ikke med én kontotype 3 pr. gældspost. I stedet havde man i Danske Bank en "samlekonto" for en debitors samlede afskrevne gæld. Denne integrationsmodel har bl.a. medført, at de forskellige forældelsesfrister og starttidspunkter for fordringernes respektive forældelsestidspunkter blev umulig at identificere. Problemet videreførtes ved indførelsen af DCS. Hvis denne registrering manuelt ikke var blevet tilrettet ville den samlede saldo fra kontotype 3 blive overført til DCS-systemet.

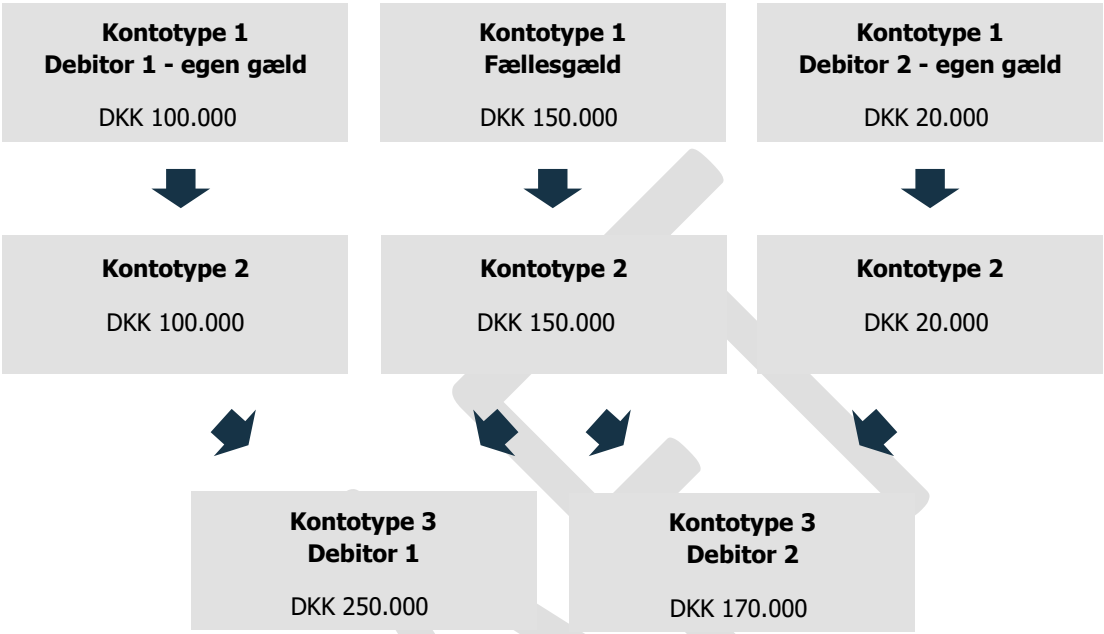
Figur 7: En sag med en debitor med flere gældsposter til inddrivelse



5.1.1.2 Dobbeltregistrering

Såfremt en fordring registreret i kontotype 3 havde to eller flere debitorer eller kautionister, blev der oprettet en konto for hver debitor med hver sit kontonummer. Gælden blev herved registreret dobbelt.

Som anført ovenfor opererede Danske Bank ikke med én kontotype 3 pr. gældspost - men derimod en kontotype 3 pr. debitor. Registreringen medførte som konsekvens, at bankens tilgodehavende fremstod forkert, og hvis der ikke internt i Danske Bank blev foretaget en manuel korrektion, risikerede man herved, at Danske Bank opkrævede et større beløb end det faktiske skyldte.



Figur 8: En sag med 2 debitorer, hvor hver især har en egen gæld samt en fællesgæld

Når en konto blev afskrevet og overført til saldotype 3, blev der for hver skyldner oprettet et E-blad. På dette E-bland skulle løbende indbetalinger registreres - hvis de fandt sted.

Disse E-blade foreligger kun i fysisk form (ringbind), og blev ikke registreret i et elektronisk system.

Alene ud fra E-bladet kunne man konstatere, hvorvidt der var andre skyldnere (meddebitorer), der hæftede for fordringen. En meddebitor skulle registreres med et grønt kryds på forsiden. Dette var metoden, hvorved man søgte ikke at inddrive det samme beløb to (eller flere) gange.

5.1.2 Fejlregistrering af advokatomkostninger

Registrerede tilkendte sagsomkostninger er ikke i overensstemmelse med de faktisk tilkendte sagsomkostninger fra f.eks. en inkassosag.

De danske domstole fastsætter standardiserede sagsomkostninger i inkassosager, der sjældent modsvarer de faktiske advokatomkostninger. Tilkendte sagsomkostninger kan tilskrives restgælden. Omkostninger herudover er kunden uvedkommende, og er en omkostning Danske Bank som kreditor må bære.

Det er konstateret, at Danske Bank har registreret de faktiske advokatomkostninger frem for de tilkendte sagsomkostninger. Hvorvidt denne praksis er fastholdt også efter indførelsen af DCS er uvist.

Dette må dog beskrives som en manuel fejl. Hvorvidt det dog skyldtes en forkert intern procedure eller blot en forkert praksis i p.t. uvist.

5.1.3 Migrationsfejl

Ved konvertering til DCS i 2004, blev saldoen for hver kontohaver (kontotype 3) overført til datafelt 3 i DCS.

Integrationen skete uagtet, at saldoen kunne indeholde forskellige hovedstole, renter og omkostninger, der potentielt kunne være forældede.

Renter og omkostninger burde ikke registreres i datafelt 3 i DCS - (medmindre renterne er anerkendt).

Alene den totale saldo overgik til DCS-systemet.

Oplysninger om tidligere kontonumre eller navne på meddebitorer/kautionister blev ikke registreret i DCS. Det var ikke muligt løbende at registrere indbetalinger parallelt mellem flere meddebitorer.

Eksempel (se figur 8)

Hvis debitor 1 indbetalte DKK 150.000 (et beløb der dækker egen gæld samt DKK 50.000 af fællesgælden) ville DKK 170.000 fortsat stå til inddrivelse ved debitor 2. Såfremt der ikke blev foretaget en manuel korrektion, ville der som konsekvens fortsat blive gjort forsøg på at inddrive det fulde beløb ved debitor 2 - selvom gælden allerede delvist var blevet betalt.

5.2 Legacy BG Bank systems

5.2.1 Generel introduktion

Inddrivelsessystemet i BG Bank var baseret på følgende tre overordnede konti (idet der for kassekreditter dog ikke var behov for oprettelse af en kontotype 2):

1. **Almindelig konto**
   f.eks. indlån, udlån og kreditter
2. **Inkassokonto**
   Overgang fra filial til inkassoafdelingen
3. **Afskrevet fordringer**
   Uerholdelige fordringer

I BG Bank var der etableret en systemmæssig betalingsrækkefølge, hvor afdrag først anvendtes til at inddække allerede påløbne renter forud for hovedstolen. Påløbne renter blev først dækket på kontotype 1 og derefter kontotype 2. Påløbne renter blev kun dækket på kontotype 3, idet omfang at renterne var anerkendt af debitor.

Når en debitor misligholdte sin betalingsforpligtelse, overførtes den misligholdte fordring fra kontotype 1 til kontotype 2, dvs. til "inkassokontoen". Filialen oprettede kontotype 2 udfyldte samtidig et stamblad, hvor følgende informationer blev registreret i den fysiske kundemappe:

- Navn på debitorer,
- Navn pa kautionister og deponenter,
- Kontonummer på konti der skulle til inkasso,
- Kontotype - gældsbrev, kassekredit eller almindeligt overtræk,
- Oprindelig lånebeløb på hver enkelt konto,

- Saldo ved overførsel til inkasso på hver enkelt konto (samlede saldo),
- Oplysning om eventuel sikkerhedsstillelse,
- Beskrivelse af sagsforløb i filialen samt oplysninger om debitors situation, og
- Dato for overførsel til inkasso.

Systemmæssigt kan man ikke tilgå disse informationer.

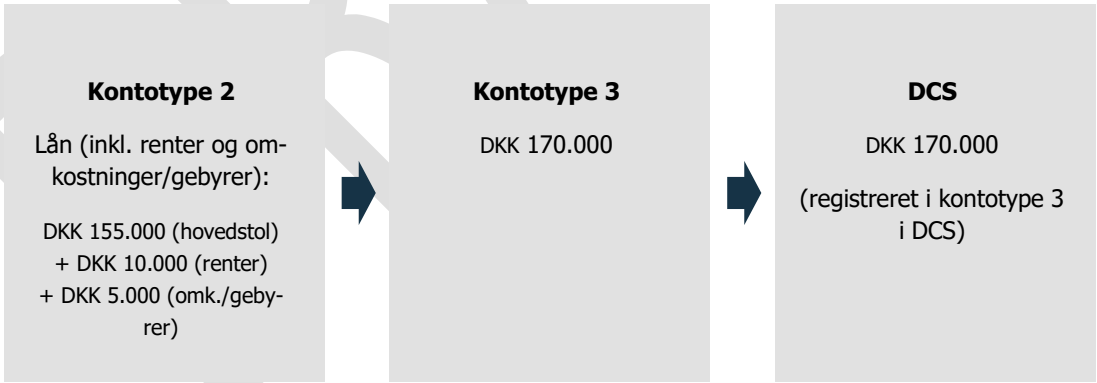
Når inkassosagen var blevet behandlet og skulle afskrives, blev fordringen overført til kontotype 3, dvs. til kontoen med afskrevne fordringer.

Inkassoafdelingen udarbejdede forud for afskrivningen et stamblad kaldet "Indstilling til afskrivning", hvilket stamblad indeholdte informationer om:

- Oplysning om gammelt og nyt konto nr.
- Saldo på krav på hver enkelt konto (det samlede udestående),
- Hvad der var sket i sagen,
- Retsbehandling,
- Dato for afskrivningen, og
- Oplysning om sagsforløb.

Registreringsmæssigt var det den samlede saldo på kontotype 2, der blev registreret på kontotype 3. Det vil sige, at når en misligholdt fordring blev afskrevet anførtes den samlede saldo som et enkelt beløb i kontotype 3.

Ved overførslen fra kontotype 2 til kontotype 3 blev der således ikke sondret mellem hhv. hovedstol, renter og omkostninger. Illustreres simplificeret nedenfor:



Før 1992:

Tilgodehavender der blev afskrevet (overført til kontotype 3) blev overført til en såkaldt "hovedbogskonto". Denne "hovedbogskonto" var en samlekonto for samtlige af de i BG Bank værende "afskrevne fordringer". Rentetilskrivning kunne således ikke foretages ligesom eventuelle afdrag ikke direkte kunne registreres.

En kunde i BG Bank modtog årligt en oversigt over de løbende mellemværende. Imidlertid kunne gæld, der var blevet tilskrevet kontotype 3, ikke indeholdes i disse årlige oversigter. Gælden tilskrevet kontotype 3 blev således skrevet ud af årsoversigten - og kunden kunne således ikke identificere den pågældende gæld til banken. Kunden modtog således ikke systematisk en årlig oversigt over gældsforholdets udvikling. Udarbejdelsen af en årsoversigt vedr. gæld tilskrevet kontotype 3 krævede manuel sagsbehandling og blev ikke konsekvent generet.

Efter 1992:

Medio 1992 blev det EDB-mæssigt muligt at håndtere de afskrevne fordringer på kontotype 3 på separate konti, hvorfor gælden kunne registreres med en samlet saldo på enkeltstående konti. Kunderne modtog herefter også årsoversigter vedr. gæld tilskrevet kontotype 3.

I de tilfælde hvor en konto havde flere end to interessenter (meddebitorer), var det ikke muligt at sende årsoversigter til alle øvrige interessenter. Det var kun muligt at sende årsoversigt til én person, hvis der var mere end to interessenter tilknyttet en konto.

Perioden 1999-2004

I perioden 1999-2004 var der i BG Bank etableret et note-baseret system. I dette system var der oprettet en række underrubrikker på kontotype 3, hvor man sondrede mellem renter, anerkendte renter, omkostninger, gebyrer og resthovedstol. Ved overgangen til DCS blev disse underrubrikker i al væsentlighed ikke registreret i DCS. I BG Bank havde man mange forskellige registreringsmuligheder i disse underrubrikker, hvilke mange registreringsmuligheder migrationen ikke tog højde for.

Den endelige migration til DCS var mangelfuld, og alene dele af de registrerede anerkendte renter blev overført til DCS's datafelt 4. Efter 2004 er underrubrikkerne i BG Banks system ikke ajourført.

5.2.2 Registrering af debitorer og kautionister

På de afskrevne engagementer på kontotype 3, hvor en eller flere kautionister helt eller delvist hæftede for engagementet, blev sådanne kautionister systemmæssigt (urigtigt) registreret som en meddebitor. Denne systemmæssige registrering var nødvendig for, at der kunne generes årsoversigter. Årsoversigten anvendtes bl.a. til at afbryde forældelse efter Danske Lov 5-14-4.

Hvis der systemmæssigt blev registreret mere end to meddebitorer, kunne der imidlertid ikke genereres årsoversigter for alle interessenter. Det var kun muligt at genere én årsoversigt, hvis der var mere end to interessenter. Der blev således kun udsendt årsoversigt til én interessent (den der var registreret med skattekode 1) med den risiko, at forældelse ikke blev afbrudt over for kautionister.

Registreringen indebærer, at man ikke systemmæssigt kan se, at meddebitoren rent faktisk er en kautionist - en sådan information fremgår alene af den fysiske kundemappe. Som konsekvens medfører dette, at kautionisten - hvis datagrundlaget i systemet lægges til grund - kunne/kan blive opkrævet uberettigede beløb, f.eks. hvis der bliver indgået en akkordordning med hovedmanden. Et sådant restkrav kan i udgangspunktet ikke gøres gældende over for en kautionist. Danske Bank har konstateret, at sådanne krav er inddrevet.

5.2.2.1 Et krav pr. konto - flere debitorer

Såfremt en fordring registreret i kontotype 3, havde to eller flere debitorer, og kravene over for de respektive debitorer blev behandlet forskelligt, og der derfor var forskellige pengemæssige krav overfor debitorerne, blev sagen ikke registreret korrekt. I BG Bank kunne der kun registreres et krav pr. konto.

DRAFT

Hvis debitor 1 eksempelvis anerkendte en resthovedstol + renter, og debitor 2 tilsvarende anerkendte kravet, kan der potentielt rejses forskellige krav over for de respektive debitorer - i hvert fald over tid i takt med forældelsen.

Eksempel: Debitor 1 underskriver et frivilligt forlig

Resthovedstol	DKK	100.000,00
Renter	DKK	15.000,00
TOTAL	DKK	115.000,00

Såfremt debitor 2 ikke tilsvarende anerkendte rentebeløbet forældes rentekravet efter den almindelige forældelsesfrist.

Systemet kunne alene håndtere ét krav. Systemmæssigt blev det højeste af de mulige krav registreret. Dvs. i ovenstående tilfælde registreres kravet med DKK 115.000,00 - og dette krav ville - hvis der ikke blev foretaget en manuel korrekt - også blive gjort gældende over for debitor 2.

Samme systemfejl gør sig gældende for kautioner. Dette er navnlig relevant i forhold til beløbsbegrænsede kautioner. Hvis der eksempelvis var vedtaget en beløbsbegrænset kaution på DKK 50.000 i ovenstående tilfælde, ville kravet overfor kautionisten blive registreret som værende DKK 115.000,00.

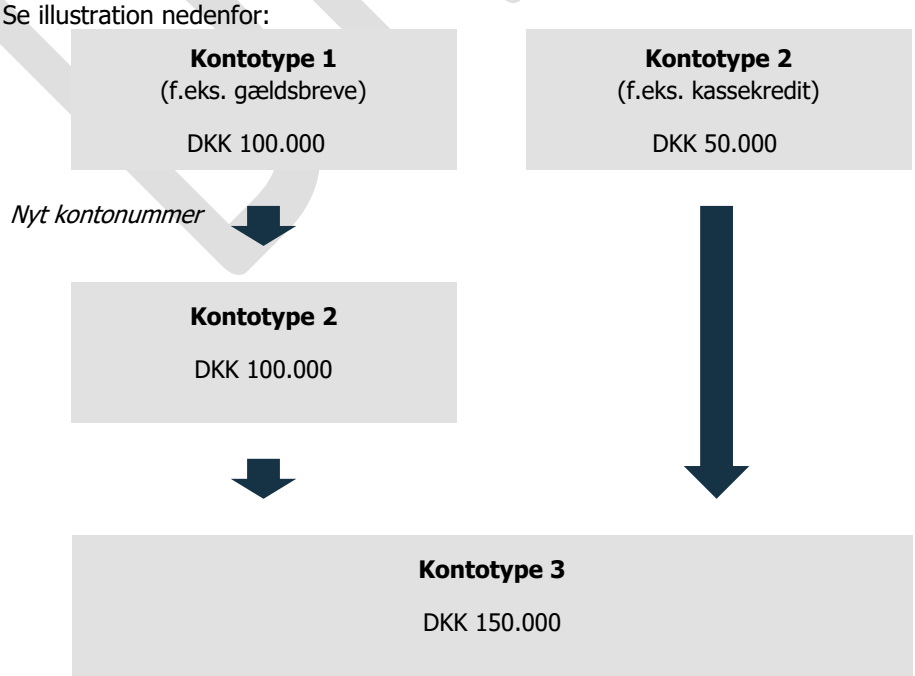
5.2.3 Skift af kontonumre

Frem til ca. år 1999/2000 var det ikke muligt at opretholde et oprindeligt kontonummer, når gælden blev sendt til hhv. kontotype 2 og kontotype 3. Systemmæssigt oprettedes et nyt kontonummer, og der var registreret en transport. Dette indebærer, at den historiske udvikling i engagementet blev vanskeligt at spore.

5.2.4 Regionale forskelle i håndteringen af kontotype 3

En debitor med flere gældsposter til inddrivelse blev håndteret på forskelligvis regionalt i Danmark. Overordnet kan det siges, at man på Sjælland opererede med en kontotype 3 pr. gældspost, mens man i Jylland anvendte kontotype 3 som en "samlekonto" for en debitors samlede afskrevne gæld.

Se illustration nedenfor:



Denne integrationsmodel har bl.a. medført, at de forskellige forældelsesfrister og starttidspunkter for fordringernes respektive forældelsestidspunkter blev umulig at identificere. Problemet videreførtes ved indførelsen af DCS.

Hvis denne registrering manuelt ikke var blevet tilrettet ville den samlede saldo fra kontotype 3 blive overført til DCS-systemet.

5.2.5 Eksempel på et hændelsesforløb

Kontotype 1

Dato	tekst	udbetaling	indbetaling	saldo
	transport			- 63.851,75
28.04.1989	indbetalt		1.000,00	- 62.851,75
24.05.1989	indbetalt		1.000,00	- 61.851,75
30.05.1989	indbetalt		1.000,00	- 60.851,75
26.06.1989	indbetalt		1.000,00	- 59.851,75
30.06.1989	indbetalt		1.000,00	- 58.851,75
30.06.1989	rente	2.327,64		- 61.179,39
01.08.1989	indbetalt		2.000,00	- 59.179,39
30.09.1989	rente	2.245,90		- 61.425,29
30.09.1989	rykkergebyr 3 stk	240,00		- 61.665,29
06.10.1989	rente	154,16		- 61.819,45
06.10.1989	til inkasso		61.819,45	- 0,00

Kontotype 2

Dato	tekst	udbetaling	indbetaling	saldo
06.10.1989	transport			61.819,45-
31.12.1989	rente	1.965,04		63.784,49-
31.12.1990	rente	9.565,05		73.349,54-
31.12.1991	rente	11.139,47		84.489,01-
31.12.1992	rente	13.132,08		97.621,09-
31.12.1993	rente	16.895,10		114.516,19-
24.02.1994	rente	3.020,05		117.536,24-
17.12.1996	Afskrivning		117.536,24	0,00

Kontoen blev således "afskrevet" den 17. december 1996 med en saldo på DKK 117.536,24. Den samlede saldo på DKK 117.536,24 blev overført til kontotype 3. Det konstateres, at der allerede inden overførslen til kontotype 3 ikke var korrigeret for tilskrevne forældede renter (den gældende forældelsesfrist for renter på daværende tidspunkt var 5 år regnet fra forfaldsdagen, og allerede den 17. december 1996 var der tilskrevet DKK 14.170,15 i forældede renter.

Saldoen på kr. 117.536,24 har været registreret på kontotype 3 frem til konverteringen til DCS i 2004, og blev registreret som hovedstol i DCS.

Saldotype: Restgæld
Fra dato: 01.01.1999
Standard liste (Bogføringsdato)
Udvidet liste (Posteringsdato)
Hent

Periode: 01.01.1999-02.01.1999 Saldo pr. 31.12.2018: -59.179,39

Posteringer

Dato	Tekst	Beløb	Saldo	Saldotype
01.01.1999	Udbetaling (System)	-117.536,24	-117.536,24	3
02.01.1999	Indbetaling, korrektion	117.536,24	0,00	3
02.01.1999	Udbetaling, korrektion	-59.179,39	-59.179,39	3

Med virkning pr. 31. december 2018 blev sagen korrigeret, og hovedstolen blev nedskrevet til kr. 59.179,39, svarende til den sidste foretagne indbetaling den 1. august 1989. De kr. 59.179,39 kan i dag tillægges 3 års rente (forudsat at forældelsen af hovedstolen er behørigt afbrudt).

Hvis debitor i dette scenarie eksempelvis den 31.12.2017 havde underskrevet et frivilligt forlig på baggrund af kontotype 3, ville de 117.536,24 blive tillagt yderligere 3 års renter af en allerede forkert opgjort restgæld.

I denne sag er der forudsætningsvist indgået enten (i) et frivilligt forlig eller (ii) opnået dom på baggrund af en urigtigt opgjort restgæld.

Hvis der ikke var foretaget en manuel korrekt af denne sag, kunne der potentielt være fejlagtigt inddrevet en beløb, der oversteg den reelle restgæld med mere end 100 %.

Resthovedstolen på alle tilgodehavender er forudsætningsvist - hvis sagen ikke er blevet manuelt korrigeret - systemmæssigt registreret forkert. Det indebærer bl.a., at Danske Bank undertiden har opkrævet mere end det skyldte beløb. Den forkerte opgørelse af resthovedstolen ses derfor også reflekteret i f.eks.:

- Indfriede fordringer,
- Frivillige forlig,
- Fogedopgørelser,
- Domsfundamenter,
- Advokatopgørelser, og
- Gældssaneringssager, konkursboer, rekonstruktion, dødsboer etc.

5.2.6 Tilgodehavender til ekstern inddrivelse

Såfremt en fordring har været til inddrivelse ved ekstern advokat er det konstateret, at når kravet tilbagesendes fra advokaten - f.eks. fordi der er opnået skylderklæring - registreredes fordringen på ny i systemet. I kontotype 3 registreredes den samlede resthovedstol inkl. renter i 5 år og fogedomkostninger. Den eksterne advokat havde typisk tilskrevet yderligere renter frem til oversendelsestidspunktet, hvilket tilsvarende blev registreret i kontotype 3 - dog som anerkendte omkostninger. Efterfølgende sagsbehandlingsskridt i tillid til systemet vil være forkerte.

5.2.7 Migrationsfejl

Ved konverteringen til DCS-systemet i 2004 blev det besluttet, at fastholde registreringen af kautionister som meddebitorer som anført i punkt 5.2.2.

DRAFT

Ved konverteringen til DCS-systemet blev kun saldoen fra kontotype 3 konverteret til DCS. Elektroniske oplysninger vedr. kontotype 1 og kontotype 2 fremgår således ikke af DCS-systemet, og sådanne oplysninger kan kun tilgås via den fysiske kundemappe. Tilsvarende fremgår der ikke informationer om, at saldoen på kontotype 3 også udgøres af eksempelvis renter, gebyrer og omkostninger. I enkelte tilfælde er anerkendte renter blevet overført til DCS. Anerkendte renter kunne i BG Bank registreres på flere forskellige måder. Selve migrationen til DCS inkluderede ikke alle registreringsmetoder.

DRAFT

ANNEX 1 - OVERVIEW OF TIME-BARRING RULES

This is a high-level non-exhaustive overview of the key rules on statute of limitation.

CLAIM	LIMITATION PERIOD	SUSPENSION CAUSE	SUSPENSION RESULT	INTERRUPTION CAUSE	INTERRUPTION RESULT
PRIOR to 1 JANUARY 2008					
Loans, over-draft accounts, document of indebtedness, settlement out of court and guarantees of these obligations	20 years from establishment	N/A	N/A	i) Debtor's Perception (*anerkendelse*) of the claim ii) Notification to debtor iii) Notice to an estate iv) Request of appropriation (*anmodning om udlæg*)	New 20 years limitation period
Interest, fees, costs and guarantee obligations of these	5 years from the due date	i) Unaccountable knowledge of the claim or the debtor's residence. ii) Substantive negotiations	Postponement of limitation period	i) Debtor's Perception of the claim ii) DB's legal actions towards the debtor	New 5 years limitation period
POST 1 JANUARY 2008					
Loans, over-draft accounts, document of indebtedness, settlement out of court and guarantees of these obligations	10 years from the due date	i) DB's lack of knowledge or ought to know of the claim or of the debtor	Postponement of limitation period	i) Debtor's Perception of the claim ii) DB's legal actions towards the debtor.	New 10 years limitation period
Interest, fees, costs and guarantee obligations of these	3 years from the due date	i) DB's lack of knowledge or ought-knowledge of the claim or of the debtor	Postponement of limitation period	i) Debtor's Perception of the claim ii) DB's legal actions towards the debtor.	New 3 years limitation period

Project Collection

Workshop 26 November 2019

Strictly confidential – legal privilege

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Introduction

Key impact of system and process failures

Systems impacted	Affected areas	Risks	Remediation

• The Debt Collection System ("DCS")
• Legacy Danske Bank system (pre 2004)
• BG Bank (pre 2004)
• (PF and Pantebreve – to be verified)
	• All customers within GRDM
	  • General debt collection
	  • Debt relief
	  • Bankruptcy
	  • Foreclosure sale
	  • Decedent estate
	  • Etc.
		• Regulatory sanctions and liability
		• Prudent practice and conduct
		• FSA
		• TAX
		• GDPR
		• Reputation
			• Reimbursement of suffered losses
			• Developing a compliant debt collection framework
			• Maintaining the reputation of Danske Bank

High impact flaws

Examples of high impact flaws (pre and post 2004)

- The field in the DCS that uses the statute of limitation for the principal amount may contain interest and/or fees although the timing barring period for these types of obligations is shorter than the time barring period for the principal amount. This is an ongoing flaw, but with a particularly high impact in connection with the migration of data into the DCS in 2004.
- The time limitation for the principal and interest is generally counted from the time the debt is entered into DCS rather than from the time the debt was due.
- Time-barred interest, costs and fee payments have incorrectly been included in settlement agreements entered with customers, and also in successful claims made against customers in courts, estates etc.

The key impact of the system and process flaws

- Customers in risk of overpaying
- Customers have overpaid
- Customers have paid debt that was time-barred
- Danske Bank has collected debt that was not owed
- Danske Bank has submitted inaccurate tax reports to the Tax Agency
- Inability to accept payments from debtors who want to make total repayment on their outstanding debt

➢ **It is not possible generally to "auto-correct" the incorrect debt calculations**

DCS

Main flaws within DCS (irrespectively of the various migration flaws between DCS and legacy Danske Bank systems)

- *Principal amount containing interest; ongoing issue*
  - **FLAW:** The data field in respect of the principal amount may incorrectly contain unpaid interest that have accrued prior to the debt being transferred to the DCS.
  - **CONSEQUENCES**:
    - Different types of amounts have been aggregated into a single amount that is then reflected as the 'principal amount' in the DCS, and subsequently treated as such for time-barring purposes.
    - Inaccurate calculation and reporting of interest.
    - Potential collection of time-barred claims, and subsequently in risk of over-payment.

- *Principal amount containing costs; (fixed on cases entered into DCS post July 2019)*
  - **FLAW:** When creating a new case in DCS, related costs (collection fees) that remain unpaid are added to the principal amount.
  - **CONSEQUENCES**:
    - Incorrect handling af time-barring.
    - Inaccurate calculation and reporting of interest.
    - Potential collection of time-barred claims, and subsequently in risk of over-payment.

- *Time-barring counting period; ongoing issue*
  - **FLAW:** DCS starts to count the time-barring periods from the date a case is opened in the DCS
  - **CONSEQUENCES**:
    - The exact time for time-barring is untraceable.
    - Potential collection of time-barred claims, and subsequently in risk of over-payment.

BG Bank

Improper and incorrect migration of data into DCS (applicable to historic BG Bank cases)

- *Single amount migration*
  - **FLAW:** At the migration between BG Bank and DCS the total debt registered in BG Bank was registered as a principal amount (field number 3 in DCS).
  - **CONSEQUENCES**:
    - Different types of amounts merged into a single amount registered as the 'principal amount' in the DCS.
    - Inaccurate calculation and reporting of interest.
    - Potential collection of time-barred claims, and subsequently in risk of over-payment.

- *Guarantors and co-debtors - Settlement agreements*
  - **FLAW:** In BG Bank it was not possible to distinguish between guarantors and co-debtors. This limitation has been transferred into DCS.
    - **CONSEQUENCES**:
    - Unjustifiable collection of debt.
      - For example where a settlement agreement (for a lower amount than the initial debt) has been agreed with a debtor, attempts to collect the full amount would still be made against co-debtors.
    - Inaccurate calculation and reporting of interest.
    - Potential collection of time-barred claims, and subsequently in risk of over-payment.

BG Bank

Improper and incorrect migration of data into DCS (applicable to historic BG Bank cases)

- *Regional differences*
  - **FLAW:** Debt collection processes differed across regions of Denmark. The integration in DCS may be affected.
    - In Jutland it was primarily decided that once a debt was written-off it would be combined with other written-off debt (even where the types of debt may have varied) belonging to the same customer
  - **CONSEQUENCES**:
    - Impossible to track differing periods of limitation.
    - Different types of amounts merged into a single amount registered as the 'principal amount' in the DCS.
    - Inaccurate calculation and reporting of interest.
    - Potential collection of time-barred claims, and subsequently in risk of over-payment.

- *Double registration of debt*
  - **FLAW:** Joint liability debtors were registered on one single account. It was not possible to take into account any differences that might arise between the debtors in respect of the outstanding debt.
    - By example, if one co-debtor entered into a settlement agreement, the system would also apply the new principal amount (which includes earlier interest and collection costs) to the remaining co-debtor(s) and the guarantor, both of whom are not bound by the settlement agreement
  - **CONSEQUENCES**:
    - Unjustifiable collection of debt.
    - Inaccurate calculation and reporting of interest.
    - Potential collection of time-barred claims, and subsequently in risk of over-payment.

Legacy Danske Bank

Improper and incorrect migration of data into DCS (applicable to historic Danske Bank cases)

- *Single amount migration*
  - **FLAW:** At the migration between Danske Bank and DCS the total debt registered in Danske Bank was registered as a principal amount (field number 3 in DCS).
  - **CONSEQUENCES**:
    - Different types of amounts merged into a single amount registered as the 'principal amount' in the DCS.
    - Inaccurate calculation and reporting of interest.
    - Potential collection of time-barred claims, and subsequently in risk of over-payment.

- *Double registration of debt*
  - **FLAW:** Where a debt was assigned to multiple debtors and/or a guarantor it was necessary, due to system limitations, to open an account for each debtor and guarantor (where applicable) each reflecting the debt owed.
  - **CONSEQUENCES**:
    - Unjustifiable collection of debt - the relevant debt was recorded more than once.
    - Different types of amounts merged into a single amount registered as the 'principal amount' in the DCS.
    - Inaccurate calculation and reporting of interest.
    - Potential collection of time-barred claims, and subsequently in risk of over-payment.
    - The link ('green X') connecting co-debtors and/or guarantors was not incorporated into the transfer and therefore co-debtors and guarantors became untraceable.
      - Potential double collection.

Key financial risks

Key financial risks	Comments
Repayments to the customers	• The obligation to repay customers will result in a net loss
Depreciation of debt that is actually time barred	• Debt registered in DCS as 'owed', but which is actually time-barred will need to be depreciated
Tax related liabilities	• There is a risk that re-opening customers' annual tax assessments will result in "late payments" of the relevant taxes. Such a cost will likely be borne by Danske Bank
Sanctions from Tax Agency/SØIK	• Risk of being fined for having reported incorrect data to the Tax Agency (Skattestyrelsen)
Sanctions from DFSA/SØIK	• Breach of conduct of business rules (god skik) for collecting debt that was statute-barred, or otherwise not owed by the customer • Governance failures for not resolving the issues despite escalation efforts made by employees and the continuation of debt collection whilst knowing that the calculations might not be correct • Governance failures for not having sufficient systems in place
Damages for losses suffered by customers and other third parties	• Customers and other third parties may claim against Danske Bank for damages for the consequences of incorrect debt collection
Fine for GDPR-non compliance	• The DCS contains incorrect data on customers' debt and other personal data in breach of GDPR.
Work to fix issues may be costly	• Due to the number of customers impacted by the issue, the costs in fixing the issue will likely be sizeable. Work on re-calculating debt correctly will take a lot of effort and resource. The need to resolve the impact on customers' tax returns may be costly. Finding a new solution for debt collection will naturally also be costly (we understand this aspect is already ongoing)

Q&A

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MEMORANDUM
ON MAIN ROOT CAUSES AND DANSKE BANK'S LEGAL OBLIGATION TO COMPENSATE CUSTOMERS

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MEMORANDUM
ON MAIN ROOT CAUSES AND DANSKE BANK'S LEGAL OBLIGATION TO COMPENSATE CUSTOMERS

1 INTRODUCTION

We have been instructed by Danske Bank A/S ("Danske Bank") to prepare this memorandum setting out:

1) the main root causes that in our view have caused Danske Bank to collect debt on an unjustified basis from customers within the Group Recovery & Debt Management ("GRDM") business area; and

2) our assessment of to which extent Danske Bank is legally obliged to Compensate the customers from which Danske Bank has collected debt on an unjustified basis due to the root causes.

The purpose of this memorandum is to serve as the basis for a data analysis to be carried out by Ernst & Young ("EY") that will enable EY to make a rough estimate (subject to certain assumptions and qualifications) of:

1) the total amount of debt Danske Bank on an unjustified basis has collected as a result of the root causes; and

2) the total amount Danske Bank will need to Compensate the customers due to an unjustified collection of debt.

The exact scope of the estimate to be made by EY will of course be agreed between EY and Danske Bank and the above just reflects our preliminary understanding of the scope of the estimate.

Together with EY we have identified four main root causes, which in our view are those with the highest impact in terms of volume. These are the root causes described in this memorandum. We note that we have also identified a number of other root causes in connection with our work on this project. These other root causes are described in our separate draft memorandum entitled "Description of key system and process flaws" dated 28 November 2019 (the "System and Process Flaw Document").

The descriptions of the root causes set out in this memorandum have been simplified in order to make it more operational and easier for EY to use the descriptions as the basis for their data analysis work. We refer to the System and Process Flaw Document for more detailed and accurate description of the root causes identified.

We have together with this memorandum also provided a separate memorandum on the relevant Danish statute of limitation rules that are relevant to this mater.

This memorandum has been prepared under time constraints as we have just had a few days from the initial instruction and only one day from final agreement on the exact scope of our work. We have therefore not had sufficient time to assess and consider all the aspects that it, in our view, is relevant to assess and consider before taking any decisions regarding remediation actions. However, we believe that our assessments and descriptions set out in this memorandum should be sufficient for the purposes of EY's data analysis described above.

This memorandum is structured as follows: Part 2 sets out the definitions used in this memorandum by reference to Annex 1. In Part 3 we have set out our descriptions of the four main root causes identified. Part 4 contains our assessment of the extent of Danske Bank's obligation to Compensate the customers and guarantors. Finally, we have in Part 5 listed the issues that we have not considered or taken into account in relation to this memorandum but which it, in our view, is relevant to take into account or consider at a later point in time.

2 DEFINITIONS

Capitalised terms used but not defined in this memorandum have the meaning set out in Annex 1.

3 MAIN ROOT CAUSES

3.1 Root cause 1: Interest, fees and costs incorrectly added to principal amount field

3.1.1 *Description of root cause*

Interest, fees and costs have incorrectly been added to the principal amount field in the DCS (field 3). This root cause has been triggered by various events.

This root cause can be divided into:

(i) two ongoing flaws in DCS that have continued to occur for a longer period of time; and

(ii) a one-off migration event that occurred in 2004 when data was transferred into the DCS.

3.1.2 *Ongoing flaws in the DCS*

3.1.2.1 *Interest incorrectly added to principal amount field in the DCS*

When a debt collection case is created in the DCS, the data field in respect of the principal amount may incorrectly contain unpaid interest that have accrued prior to the debt data being transferred to the DCS. This means that the interest amount and the principal amount have been aggregated into a single amount that is then reflected as the 'principal amount' in the DCS.

It is our understanding that this flaw mainly occurs in cases of partial repayments of interest. However, there continues to be some uncertainties exactly when this flaw is triggered and what its exact impact is in respect of the unpaid interest. Further, we also understand that EY has identified some cases where debt data has been transferred to the DCS and where interest have been added directly to the principal amount even though no partial repayments of interest has occurred.

Period of time

This flaw has to our understanding occurred on an ongoing basis since 2004 and continues to occur.

3.1.2.2 *Fees and costs incorrectly added to principal amount field in the DCS*

When a debt collection case is created in the DCS, the standard collection fees (in Danish: *rykker-gebyrer*), which is typically 3 x DKK 100, are generally incorrectly added to the principal amount field in the DCS. This means that the collection fees and the principal amount have been aggregated into a single amount that is then reflected as the 'principal amount' in the DCS.

It is also our understanding that certain other costs in some cases may incorrectly be added to the principal amount field, e.g. certain lawyers' fees.

Period of time

The flaw has to our understanding occurred on an ongoing basis since 2004 and until July 2019.

3.1.3 *One-off migration event in 2004*

3.1.3.1 *Interest, fees and costs added to principal amount field in the DCS*

When data in 2004 was migrated into the DCS, the total debt (the principal amount, interest, fees and costs) registered in each of Danske Bank's and BG Bank's systems was incorrectly transferred as single field integration into the principal amount field in the DCS.

Period of time

This flaw originates from the migration of data in 2004, and this flaw should therefore only occur on migrated cases. However, it likely impacted a high percentage of the cases being transferred to the DCS.

3.1.4 *Consequences of root cause*

The key consequences of this root cause are:

- Since the DCS is programmed to apply a 10-year time-barring period to the principal amount field, the incorrectly added interest, fees and costs - in respect of which only a 3-year time-barring period apply - will not be treated as time-barred by the DCS before 10 years.
- Danske Bank will unjustified have collected time-barred interest, fees and costs.
- The DCS will unjustified have calculated additional interest based on too high an amount since interest is calculated on the basis of the principal amount stated in field 3.
- Danske Bank may have reported incorrect data on customers' principal amount of debt and interest payments to the Tax Agency (in Danish: *Skattestyrelsen*).
- Danske Bank's data on the total amount owed by the customers in the DCS will reflect a higher amount than actually owed by the customers.

3.2 **Root cause 2: Incorrect information of Due Date**

Pursuant to the Limitation Act, the time-barring period in respect of a principal amount, accrued interest, fees and costs should be counted from the Due Date of the relevant debt.

In order to correctly keep track of when a debt becomes time-barred, it is as a starting point necessary to know:

(i) the time-barring period that applies to the relevant type of debt; and

(ii) when the Due Date of the relevant debt occurred.

However, information on the correct Due Date is not necessarily transferred to the DCS. Rather, the due date registered in the DCS, and which therefore is used to calculate when the debt is time-barred, is the date on which the debt data is transferred into the DCS.

This means that the DCS starts to calculate the relevant time-barring period from an incorrect date later in time than the due date, and consequently the debt is registered time-barred at a later point in time than it actually should be under the Limitation Act. This is mainly a risk in respect of time-barring of the principal amount where Danske Bank (or a debt collection agency) may have to interrupt the time-barring of the principal amount. If Danske Bank takes such action close to the expiration time of the time-barring period, the principal may in reality already be time-barred even though the DCS shows that there still is some time before the principal is time-barred.

Period of time

This flaw has to our understanding occurred on an ongoing basis since 2004 and continues to occur.

3.2.1 *Consequences of root cause*

The key consequences of this root cause are:

- The debt shown in the DCS may actually be time-barred because the Due Date used to calculate the beginning of the time-barring period is a later date than what is actually the case.

- Danske Bank will unjustified have collected time-barred debt.
- Danske Bank's data on the total amount owed by the customers in the DCS will reflect a higher amount than actually owed by the customers.

3.3 Root cause 3: Guarantors from BG Bank have been treated like co-debtors

3.3.1 *One-off migration event in 2004*

In BG Bank's system it was not possible to distinguish between guarantors and co-debtors. BG Bank therefore manually kept track of whether an individual or entity was a guarantor (in Danish: *kautionist* or *garant*) by stating this in the relevant physical files.

Since there was no electronic information in BG Bank's system to identify whether a specific individual or entity was a guarantor, no information about this was migrated into the DCS system in 2004. Therefore, after the migration to DCS, guarantors in BG Bank has incorrectly been reflected and treated like co-debtors in the DCS system. Further, since the information in the DCS to an increasing extent over the years has been relied upon rather than the physical files, the risk of this data flaw materialising has increased over time.

The flaw means in practice that Danske Bank may not have observed the special requirements that follow from an individual or entity being a guarantor. For example, Sections 47-48 of the Danish Financial Business Act set out a number of notification obligations that must be observed by Danske Bank in respect of guarantors in order for Danske Bank to maintain a claim against the guarantors. The requirements apply both to commercial relationships and to non-commercial relationships, although the rules are stricter in respect of the requirements vis-à-vis non-commercial relationships.

Period of time

This flaw only occurs on cases migrated into DCS in 2004.

3.3.2 *Potential ongoing issue*

We understand that EY has received information that this root cause may also have occurred after 2004 in the DCS. It is not currently clear to us if any such subsequent occurrences are limited to manual errors only (i.e. non-systemic or processing errors). We have not received information about this root cause being an "ongoing" issue so this is something that should be investigated further.

3.3.3 *Consequences of root cause*

The key consequences of this root cause are:

- Danske Bank may fully or partially have lost its rights against guarantors due to not having observed the legal requirements applicable in respect of guarantors.
- Danske Bank may incorrectly have reported data to the Tax Agency in respect of the guarantors as if they were co-debtors.
- Danske Bank may have collected debt from guarantors which in fact was not covered by the guarantee, e.g. if the guarantee was limited, or if debt-arrangements have been agreed with the principal debtor.

3.4 Root cause 4: Missing link between principal debtor, co-debtors and guarantors

3.4.1 *One-off migration event in 2004*

In Danske Bank's pre-DCS system it was not possible to distinguish between guarantors and co-debtors. Where a debt was assigned to multiple debtors and/or a guarantor the procedure was to

open an account for each debtor and the guarantor (where applicable) each reflecting the debt owed. The relevant debt was accordingly recorded more than once.

Prior to DCS, these types of accounts were managed manually by making amendments to physical ledgers associated with an account following account activity such as a payment, newly accrued interest, costs etc. When Danske Bank received a payment from a debtor, the principal amount would be reduced in line with the payment received on his/her ledger. Where a co-debtor or guarantor was attached to the same debt, the physical ledger would be marked with a green X, and the payment received would also need to be registered, and the principal amount reduced, on the corresponding physical ledger of that co-debtor or guarantor.

When the DCS was implemented and existing accounts were transferred into the DCS, the link (the green X) connecting co-debtors and/or guarantors was not migrated into the DCS and therefore the link between co-debtors and guarantors was lost. In other words, if a debtor made a payment against a debt, a corresponding reduction that would be required on the account of a co-debtor and/or a guarantor would not be made.

Period of time

This flaw only occurred when the migration of data took place in 2004.

3.4.2 *Potential ongoing issue*

We understand that EY has received information that this root cause may also have occurred after 2004 in the DCS. It is not currently clear to us if any such subsequent occurrences are limited to manual errors only (i.e. non-systemic or processing errors). We have not received information about this root cause being an "ongoing" issue so this is something that should be investigated further.

3.4.3 *Consequences of root cause*

The key consequences of this root cause are:

- Danske Bank may have collected debt that was not owed because the debt was recorded more than once (potentially double payment).
- Danske Bank have reported incorrect data on customers' principal amount of debt and interest payments to the Tax Agency.
- Danske Bank's data on the total amount owed by the customers in the DCS may reflect a higher amount than actually owed by the customers (because repayments e.g. by co-debtors may not be registered in respect of the other co-debtors).

4 OBLIGATION TO COMPENSATE CUSTOMERS

4.1 Right of restitution

Under Danish law, if a person (or entity) has paid an amount due to a mistake, misunderstanding or as a result of an error, the starting point is that the person has a right of restitution (*condictio indebiti*) against the other person (or entity) to which the payment has been made.

Based on case law from the Danish courts, the starting point with the payer's right of restitution may in some cases change to the effect that the payer losses the right of restitution. The typical examples of cases where the payer has lost the right of restitution, regardless of the starting point, is where the payment (i) is made due to a mistake attributable to the payer; and (ii) the receiver of the payment was in good faith.

In situations where the fault of the mistaken payment lies with the receiver of the payment (as it will be the case in the situation at hand in respect of Danske Bank), it is clear from case law from the Danish Supreme Court that the payer will be entitled to restitution.

Based on this, it is generally our view that the customers (or guarantors) that have paid amounts that were time-barred or that were not actually owed to Danske Bank have a right of restitution. The fact that the customers (or guarantors) have actually paid the amounts without any objections does not alter this.

In cases where it due to the specific circumstances would be unreasonable or very burdensome for Danske Bank to Compensate a customer, Danske Bank may have an argument to avoid having to Compensate the customer. However, we generally do not believe Danske Bank will be able to avoid Compensations based on this argument. Accordingly, at least for the purposes of EY's data analysis, we suggest that this possible exemption is disregarded.

4.2 Time-barring

4.2.1 *General background to the applicable time-barring rules*

Currently, the Danish time-barring rules are set out in the Limitation Act, which came into force on 1 January 2008. Before the Limitation Act entered into force, the Danish time-barring rules were set out in the two acts DL 5-14-4 and the 1908 Act. Both of these two acts were replaced by the Limitation Act on 1 January 2008.

The transitional rules applied during the period from 1 January 2008 to 1 January 2011. All claims established before 1 January 2008 will be time-barred by now, unless Suspension or Interruption have continuously been and are duly constituted. All relevant claims are now regulated by the Limitation Act exclusively.

For further details on the time-barring rules, please refer to our separate memorandum on this.

4.2.2 *The time-barring rules applicable to the customers restitution claims against Danske Bank*

Under the Limitation Act, the general rule on time barring of debt provides that debt will be time-barred after three (3) years, pursuant to the 3(1) of the Limitation Act. Accordingly, this will be the time-barring period unless a different time-barring period is specified in the Limitation Act. The period begins from the Due Date pursuant to Section 2(1) of the Limitation Act.

The principal amount of a loan is subject to a time-barring period of ten (10) years.

In the examples where a customer has paid a debt to Danske Bank that was actually time-barred or was not actually owed, and the customer therefore gets a restitution claim against Danske Bank, as stated in Part 4.1 above, the time-barring will as a starting point be three (3) years as no special time-barring period is specified in respect of such claim. This will also be the case in situations where the payment is not made by the customer but by way of distribution of a divided from a bankruptcy estate, an estate of a deceased person or from a customer in debt relief on the basis of an unjustified claim for the debt submitted by Danske Bank.

Regardless that the time-barring period is three (3) years in respect of the customers' restitution claims, the time-barring period is suspended if the customer (or the bankruptcy estate or the estate of deceased person etc.) is not and ought not to be aware of the restitution claim. However, the absolute limitation period - regardless of whether the time-barring period is suspended - is ten (10) years, pursuant to Section 3(2), no. 4.

In our view, customers' or guarantors' restitution claims against Danske Bank will be subject to the general time-barring period of three (3) years, but the time-barring period will be suspended for a maximum of ten (10) years until the customer becomes or ought to become aware of its restitution claim.

There may be special cases where Danske Bank perhaps would be able to argue that the customer ought to have been aware that the payment(s) made to Danske Bank were not correct as they were time-barred or not actually owed. However, we only expect this to be relevant in very few cases.

Therefore, for the purposes of EY's data analysis, we recommend that it is assumed that the time-barring period of customers' restitution claims against Danske Bank will be suspended which means that the model should consider all restitution claims that have a Due Date less than 10 years back will not be time-barred.

We note that there may be special cases where Danske Bank from a legal perspective would be legally obliged to go a bit further back in time than 10 years, but this will most likely only be a in a limited number of cases. We do therefore not believe this is something that is relevant for EY to take into account in their data analysis at this point in time.

4.2.3 *Special rules on time limitation in respect of certain claims under criminal cases*

As described above, claims in respect of restitution (*condictio indebiti*) and liability for damages against Danske Bank will be time-barred at the latest after 10 years of the unjustified collection.

In that connection we note that it may be possible for customers to file an already time-barred claim against Danske Bank according to the rules on Ancillary Proceedings.

In these Ancillary Proceedings, time-barring of claims does not prevent a defendant from being liable to pay damages or Compensation to the injured in connection with the criminal case where the accused is found guilty. Such a claim can also be asserted under a separate lawsuit within 1 year of final decision in a criminal case where the defendant is found guilty, or within 1 year of the defendant adoption of a fine or other criminal sanction.

The decisive point is that a criminal case is actually carried out, and by implication that the specific injured can be identified - however, it is unclear whether a more general decision will be sufficient to initiate such a process. The rules on time-barring is regulated in respect of the time-barring period for criminal charges. For the identified potential criminal offence there is a limitation period of 10 years.

Claims that have been time-barred before the time-barring of the criminal charges cannot by implication be involved in such Ancillary Proceedings. At this moment initiation of Ancillary Proceedings seems unlikely.

4.3 Set-off right or obligation to pay out debt collected on an unjustified basis?

If (i) the customer has a valid claim (for restitution or liability for damages) against Danske Bank, and (ii) Danske Bank has a valid claim against the customer, it is our preliminary assessment that Danske Bank will be entitled to set-off the customers claim against Danske Bank in Danske Bank's claim towards the customer.

Due to the limited time for our input, we have not been able to analyse whether such a set-off would be permitted under the applicable regulatory conduct of business requirements, including prudent debt collection practice, good business practice etc. Further, we have also not conducted an analysis of any tax-related impact.

4.4 Interest on Compensation amounts

In the situations where Danske Bank is obliged to Compensate the customer for a loss, interest will as a starting point accrue from the date the customer paid the debt Danske Bank was not entitled to collect.

The rate of interest is determined pursuant to Section 5 of the Danish Interest Act (at present 8.05%).

It is possible it will be relevant to distinguish between situations where Danske Bank is able to set-off the customer's claim against other debt owed by the customer and situations where Danske Bank will actually need to pay out an amount to the customer. We have not had time to analyse this in detail yet.

4.5 Regulatory conduct of business requirements

Section 43 of the Financial Business Act provides that Danske Banks must be operated in accordance with honest business principles and good practice within the field of activity. This obligation is fleshed out in Executive Order on Good Business Conduct.

We have considered whether this requirement entails a requirement for Danske Bank to Compensate customers in respect of those of the customers' claims against Danske Bank that have become time-barred. Our preliminary view is that that no such Compensation requirement will apply in that case as we would expect the time-barring rules of the Limitation Act to prevail over any obligation to compensate customers pursuant to the conduct of business requirements.

We have also considered whether Danske Bank will have an obligation to notify those of the customers that have been impacted by the root causes and in respect of which Danske Bank has collected debt Danske Bank was not entitled to. Our preliminary view is in that respect that Danske Bank will be obliged to make such notification unless it would unreasonably cumbersome. We recommend that this is analysed in further details and any decision in this respect should probably be discussed with the Danish FSA.

4.6 Specific situations assessed

4.6.1 *Introduction*

We have below set out our assessment in respect of Danske Bank's obligation to Compensate customers (or guarantors) in the following four situations:

1) if Danske Bank has collected debt that was time-barred;
2) if Danske Bank has collected debt that was not owed;
3) if a customer has suffered a loss due to a claim from the Tax Agency resulting from an incorrect reporting of data by Danske Bank; and
4) if Danske Bank is not able to evidence with a customer's debt has become time-barred.

4.6.2 *Situation 1 - Collection of debt that was time-barred*

The customer will have a restitution claim against Danske Bank in a situation where Danske Bank has collected debt that was time-barred.

The customer's claim is subject to the general three (3) years' time-barring period, but the period will be suspended for ten (10) years because the customer will typically not be aware of the restitution claim.

4.6.3 *Situation 2 - Danske Bank has collected debt that was not owed*

The customer will have a restitution claim against Danske Bank in a situation where Danske Bank has collected debt that was not actually owed.

The customer's claim is subject to the general three (3) years' time-barring period, but the period will be suspended for ten (10) years because the customer will typically not be aware of the restitution claim.

4.6.4 *Situation 3 - Loss due to claim from the Tax Agency resulting from incorrect data reporting*

Since Danske Bank has reported incorrect data in respect of the customers' debt owed to Danske Bank and the interest payments made, the Tax Agency may claim damages from customers that have received too high a tax deduction as a result of the incorrect data reported by Danske Bank.

The customers will in turn get a recourse claim against Danske Bank for the same amount as the amount claimed by the Tax Agency.

In our view, the Tax Agency will most likely be able to resume the tax assessment of customers 10 years. In the cases where the Tax Agency has a claim going up to 10 years back, the Tax Agency will also have a right to claim interest on the amount up to 10 years back. Detailed rules apply in respect of determining the restitution level, see Section 62a of kildeskatteloven.

[@EY, in respect of the impact assessment, please note that Section 5(8) of Ligningsloven provides that: "*Renteudgifter mv., jf. stk. 1, kan først fradrages ved opgørelsen af den skattepligtige indkomst i det indkomstår, hvori betaling sker, hvis renteudgifter mv. for tidligere indkomstår i samme gældsforhold ikke er betalt inden udgangen af indkomståret*".]

4.6.5 *Situation 4 - Unable to evidence if debt is time-barred or not*

In situations where Danske Bank is not able to evidence whether a customer's debt is time-barred or not, e.g. because Danske Bank cannot prove when the Due Date of the debt is, Danske Bank will in our view have to waive the claim for the debt.

5 ISSUES NOT CONSIDERED

We have considered the following issues out of the scope of this memorandum:

- Any claims for indirect or consequential damages, e.g. customers that have suffered an indirect loss as a result of Danske Bank having collected an amount Danske Bank was not entitled to;
- Any compensation that Danske Bank may be obliged to pay as a result of Danske Bank having entered into a settlement agreement or repayment agreement with a customer on the basis of Danske Bank stating that the customer's debt was X amount while it actually was a lower amount, e.g. if it has appeared to the customer that the customer received a discount of 25% while the customer actually - due to the incorrect debt information - only received a discount of 10%. The customer may in such situation - depending on the specific facts - be able to claim to be put in a situation as if a 25% discount had actually been granted. This may be relevant to analyse further at a later point in time;
- Issues arising out of or in connection with PF or the "Home issue"; and
- Any questions of foreign law.

ANNEX 1 - LIST OF AGREED TERMS

Below we have prepared a non-exhaustive list of defined terms relevant to this project. The list should be updated on an ongoing basis based on the agreement between Danske Bank, EY and Plesner regarding which terminology to use in connection with the project.

"Ancillary Proceeding"	means a judicial enforcement of a civil claim filed and growing out of the prosecution of a criminal offence. In Danish "*adhæsionsproces*".
"Barring of Claim"	means preclusion of a claim. In Danish "*præklusion*"
"Co-debtor"	means one of two or more debtors who are joint and separate liable to the same debt.
"Compensation"	means set-off, refund or repayment.
"Debt Relief"	means in court debt-restructuring. In Danish "*gældssanering*".
"Document of Indebtedness"	means an instrument of debt and serves as a legally enforceable evidence of a debt and the promise of its timely repayment. In Danish "*Gældsbrev*".
"Due Date"	means the last day for payment without unpaid amounts being subject to a late payment charge or additional collection efforts. In Danish "*forfaldsdag*".
"Dunning notice"	means a notification sent to a customer, stating that it is overdue in paying an account receivable and where a fee off DKK 100 is attributed to the debt. In Danish "*Rykkerbrev*".
"Executive Order on Good Business Conduct"	means executive order no. 330 of 7 April 2016, as amended.
"Guarantor"	means a person who guarantees to pay a borrower's debt in the event the borrower defaults on a loan obligation (totally or partially).
"Interruption"	means a break in the continuity of the limitation period.
"Limitation Period"	means a certain period limited by the applicable rules on statute of limitation after which debt collection cannot be enforced.
"Liquidator"	means either (i) a person appointed by the shareholders to liquidate a company, (ii) a person appointed by the probate court to liquidate a company.
"Overdraft Account" and "Overdraft Facility"	means a credit agreement made with a financial institution that permits an account holder to use or withdraw more than they have in their account, without exceeding a specified maximum negative balance. In Danish "*Kassekredit*".
"Perception"	means the debtor's admission of the existence of the debt. In Danish "erkendelse af gæld".
"Proff of Claim"	means a notice of claim in an estate (bankruptcy, decedent estate, debt relief, etc).
"Root cause"	means the actual reason for the occurrence of a problem.
"Suspension"	means postponement of the limitation period.
"Time-barred"	means barred by the passage of time under a statute of limitations. In Danish "*forældet*".

Danske Bank

DRAFT

Phase 2:
Data analysis and considerations within debt collection

Project Athens – 01-July-2020
Version 0.3

EY
Building a better working world

Introduction

- The following analysis has been performed in accordance with instructions from Danske Bank A/S (Danske Bank) and founded upon the description of main root causes prepared by Plesner Advokatpartnerselskab (Plesner) set out in their memorandum of 13 December 2019 (the "Main Root Cause Memorandum")

- Ernst & Young (EY) have been tasked by Danske Bank to estimate and execute the redress of customers affected by the flaws identified within Group Recovery & Debt Management (GRDM), specifically relating to data quality issues in the two centralized debt collection systems; Debt Collection System (DCS) and Personlig Fordring (PF)

- The flaws have affected the customers registered in the two systems which can be segmented into three main customer groups;

  i. Customers with debt incorrectly registered in the systems, but have not made any repayments
  ii. Customers subject to incorrect collection of debt, however the over-collection can be offset in the customers' outstanding debt
  iii. Customers subject to incorrect collection of debt that are eligible to receive compensation

- The scope of the data analysis and the focus of this report has been to identify affected customers that are likely to be eligible to receive compensation as a direct consequence of the main root causes (customer group (iii)), as well as estimate the total financial impact of such remediation. Further, EY has been tasked to assist Danske Bank in executing the outpayment to affected customers

- The reasoning behind the approach outlined above relies on Danske Bank's ambition to compensate customers, that have suffered a direct financial loss due to root causes, as soon as possible while being mindful of the important task at hand of rectifying every customer that have been impacted by root causes, although it has not led to a direct net financial loss (i.e. customer groups (i) and (ii))

- The remediation of customer groups (i) and (ii) will focus on correction of cases while notifying affected customers respectively that their debt has been corrected or that their claim against Danske Bank have been offset in their outstanding debt

- The programme governance structure has been revised in June 2020 to ensure a clearer remediation focus and speed of execution with a programme timeline for completion set to end of Q3 2021, subject to changes pending dialogue with authorities and further calculations. See pp. 23 and 24 respectively

- The remediation of customer groups (i) and (ii) will be executed by a dedicated workstream 'Portfolio trimming and Clean up' that will identify, rectify and inform the selected customers impacted by root causes (i.e. debt incorrectly registered)

Key terminology and definitions

- **Compensation**
  - *Means either set-off, refund, redress, restitution or repayment (dependent on context)*
- **Due date**
  - The last day for payment without unpaid amounts being subject to a late payment charge or additional collection efforts
- **Over-collection**
  - *Amount of the collected debt that Danske Bank did not have a legal justification to claim (due to i.e. wrongfully calculated outstanding debt and partial (or total) time-barring of debt)*
- **Overpayment**
  - *Identical definition to over-collection, taking the customer's perspective*
- **Redress**
  - *Total compensation that Danske Bank is obliged to pay affected customers (adhering to remediation principles approved by Project Athens Steering Committee) that have suffered a direct financial loss (over-collection). Total redress amount can include compensation due to direct financial loss, indirect loss and a time-value component.*
- **Offset**
  - *If the customer's existing debt exceeds the prescribed redress amount, then Danske Bank will be entitled to offset the customer's claim against Danske Bank as outlined in Plesner draft memos (13. December 2019 and 8. April 2020). However, this assessment relies on the assumption that the opposing claims are originating from the same legal relationship (i.e. connexity)*
- **Time-barred**
  - *Means barred by the passage of time under a statute of limitations*

Agenda

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Executive Summary

- Project Athens analysed the identified data quality related issues in Group Recovery and Debt Management (GRDM) that led to two ORIS filings in the summer 2019
- A project team from EY have led the data analysis and delivered conclusions in two previous reports in end December 2019 and in end January 2020
- The external law firm, Plesner, has performed legal assessments under instruction of the Bank and the analysis in this report builds on the legal basis provided by them

In these previous reports, EY concluded the following:

- Four root causes had affected about 106,000 customers, of which estimated 24,000 could be entitled to a redress as the impact of the root causes could be offset in the remaining debt for the rest. Examples of the four root causes can be found in appendix pp. 27-30
- The root causes relate to improper and incorrect integration of existing loans into the IT systems supporting the debt collection process and dating back to when the systems were introduced (1979 and 2004)
- Because of the root causes, the Bank has potentially (i) collected debt (fees, interest and principal) that potentially was time-barred at the time of collection (ii) collected debt based on wrongly calculated principals and/or (iii) treated guarantors and co-debtors as primary debtors, leading to potential over-collection. The data analysis considers all three types of over-collection (i,ii,iii)
- The root causes has been isolated to two systems, *Debt Collection System* (DCS) and *Personlig Fordring* (PF), and impacted Denmark only as manual processes mitigated the impact in other countries (pending 2nd line approval)
- Insufficient governance set-up within GRDM and controls in the internally developed systems had failed to catch incorrect input entered into the systems at the time of implementation as well as in the following years

- 402,000 customers had been through the two systems
- 152,000 of these could safely be removed as they belonged to other legal entities, where manual processes had mitigated the impact
- Further 105,000 customers could be removed as they never paid anything on their debt, and hence could not have overpaid
- Additional 24,000 customers could safely be removed as they entered the systems and paid their debt before any interest could have time barred (within 3 years)
- Finally 15,000 customers had entered the two systems through validated channels and confirmed to be correct
- This leaves 106,000 customers at risk of over-collection and hence a redress for direct loss
- It is from this group of customers that EY estimates that 24,000 (23%) customers have suffered direct losses that exceed their remaining debt, and hence need to be redressed
- The redress should also include indirect, consequential and tort related losses that both the four root causes, but also a series of other practices in GRDM had caused for the customer (e.g. wrongful reporting to the RKI, customers having to take out expensive loans to pay their debt or settlements made on incorrect data)
- These indirect losses cannot be calculated, but should be treated in a new claims handling process.

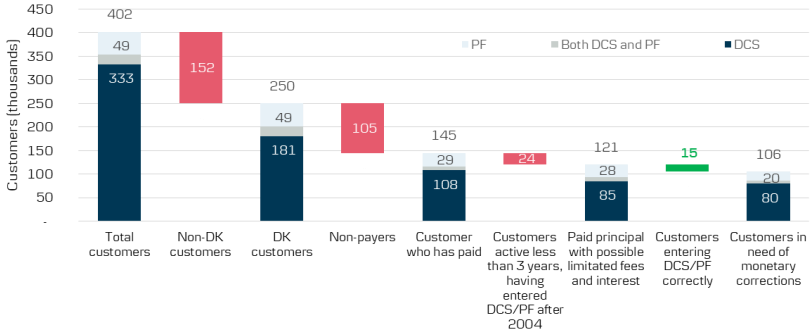
Redress approach is dependent on data availability:

- EY will apply a data model approach to identify customers in scope for redress only where sufficient electronic transaction data exists (i.e. after 2010). The model is applicable for 20,000 customers in DCS. Calculation of the potential redress to the remaining customers in scope (86,000) requires manual review

- Calculation of the potential redress to the remaining customers in scope (86,000) requires manual review. To reduce manual workload a repayment ratio of at least 80% is implemented leaving 43,150 customers for manual handling. The repayment ratio is set based on empirical data on overpayment ratios, including uncertainty factor and will exclude customers extremely unlikely to be in scope for redress
- See complete breakdown of customer redress actions and non-actions illustrated in decision tree on p. 14

This report answers the following five questions:

1. Can the project assure that the root causes currently are sufficiently prevented from causing additional and refundable losses for customers?
2. What is the scope of the redress the Bank is going to pay back to the impacted customers?
3. How can the project segment the customers into cohorts?
4. What is the estimate of the financial impact of the redress?
5. How does EY suggest to execute the remediation?



Executive Summary (cont.)

Question 1: Root causes sufficiently mitigated?

- EY's assessment of the red- / green mitigation process introduced in July 2019, has shown there are at least three instances where the customer still can be over-collected from. These are:
  - The customer is following a payment plan settled prior to July 2019
  - The customer is making an "unscheduled"/un-agreed payment
  - An estate handling or a bankruptcy is completed before the Bank resubmits the correct claim
- The assessment has however shown that enforcement of the mitigation process has been strict and that cases are being manually reviewed prior to e.g. court proceedings/foreclosures to ensure proper mitigation of the known data quality issues
- EY has reviewed 100 new cases and not been able to identify any among these that have led to over-collection, but EY concludes that the process lacks controls and 2nd line review. An internal risk assessment has been initiated on 3rd March 2020, and conclusions are pending
- EY recommends independent review from 2nd and 3rd line and tight process control going forward, but do not recommend that this should stall the redress execution as no evidence of over-collection have been found

Question 2: Scoping

- Plesner[1] concludes that the four root causes have led to the majority of the issues identified; however, five additional significant side issues have been identified and assessed. These are: Impact on other countries, broker fees from *home*, GDPR concerns, outsourcing to debt collection agencies (DCAs) and credit rating (RKI) reporting. Additional (10) issues and concerns exist and is currently being analysed and qualified

EY concludes that:

- **Country dimension**: The four root causes have not had an impact beyond Denmark as manual processes have mitigated the incorrect data in the systems. Pending 2nd line review
- ***home* fees**: In facilitating voluntary deficit property deals (DK: "*underskudshandler*") on behalf of customers, established process within GRDM has been to not negotiate the fee proposal from real-estate agent *home*, while fee proposals from other real-estate agents should be negotiated. This may have led to customers paying too high a fee to *home*, eventually leading to a higher remaining debt after the property was sold off. Although investigations into the matter has shown, that a basis for comparison of what the "right" fee should have been is a very difficult process, it is assessed that this issue should lead to a redress for the customers in relevant cases. However, as the issue is unrelated to the root causes, the exercise of potentially redressing these customers should be separated from the main redress execution in Project Athens
- **GDPR concerns**: Processing of incorrect data is not adherent to the GDPR regulation. This in turn may lead to indirect losses for the customers. It is the conclusion, that from a legal perspective the processing of the incorrect data is not a "data breach" as defined by GDPR, and hence the Bank is not required under the GDPR to proactively communicate to affected customers. Potential direct losses for customers, stemming from the Bank's processing of flawed data, is already covered by the redress approach. Customers substantiating an additional indirect loss (e.g. tort, cf. the GDPR, sec. 82) could be entitled to an additional redress. Estimated size of potential fine (if any) is in the range of 7.5 mDKK, based on the very limited precedent available
- **RKI reporting**: The Bank is under no regulatory requirement to report customers that are sent for debt collection to credit reference agencies, such as RKI. Customers, who are unrightfully (or with incorrect data) reported to RKI, can claim a loss and should be entitled to a redress. As the likelihood of the entire principal being time-barred is limited, EY concludes that the majority of the customers have been reported correctly to RKI, and only interest might be time-barred leading to additional redress, provided that the customer can substantiate a loss
- **Debt collection agencies**: On the outsourcing to DCAs, the four largest providers (19k out of 40k cases) have been contacted and a reconciliation of their data been undertaken. Conclusion is that the outsourced customers are included among the 160,000 customers mentioned on previous page. Data flows have however been flawed flowing back from the DCAs, leading to potential mis-matches in the active- / passive status. Up to 950 customers could potentially have paid on their debt, without it being properly registered in DCS and hence appearing as non-payers in DCS. These are recommended to be added to the redress portfolio
- An overview of the investigated five side issues stated above is included on p. 9
- Further risks and issues, e.g. incorrect charged court fees, potential conduct related issues and incorrect settlements are currently being investigated. See pp. 10-11 for an overview of remaining items and concerns

Question 3 – Customer cohorts

- 402,000 customers (private and commercial) have been handled in the two systems. Of these the Bank can safely exclude:
  - Non-DK portfolio (152,000) – pending 2nd line review
  - Customers who haven't paid anything – non-payers (105,000)
  - Customers who have been active less than 3 years in DCS after 2004 and customers who entered PF less than 3 years ago– i.e. less than the limitation period for fees and interest. An conservative cut-off period of 2.5 years is applied for DCS (24,000)
  - Customers correctly calculated and entered into DCS and PF (15,000)

(continued on next page)

[1] "*Memorandum on root causes and obligation to compensate customers - 13.12.2019.docx*"

Executive Summary (cont.)

- This leaves 106,000 customers in scope for potential over-collection
- These can be split into 80,000 customers in DCS and 26,000 customers in PF
- 20,000 of the customers in DCS can be re-calculated as original loan data exists electronically.
- The remaining 86,000 (60,000 in DCS and 26,000 in PF) have to be manually reviewed in order to determine whether the Bank has over-collected from them
- As the majority of these customers have not fully paid their debt and since the corrections performed by the BAU team stay below 20% of the principal, it is safe to assume that repayment rates below 80% of the principal would allow over-collection to be offset in the remaining debt[1]
- Hence manual handling can be reduced to 43,150 customers
- Customers with repayment ratio below 80% would be treated as a part of the BAU, but would not be entitled to a redress
- The cohorts for redress are therefore 20.000 customers that can be re-calculated and 43,150 customers which cases have to be manually reviewed
- 24,000 customers are estimated to be entitled to redress. 7,500 of these are identified[2] and the remaining customers are expected to be identified by manual handling

Question 4 – Financial impact

- The distribution of the over-collection is a skewed normal distribution with an average of 1,600 DKK[3]. Across both systems the total estimated over-collection (excl. interest compensation) sums up to 49.6 mDKK – see p. 18 for an overview of redress composition
- To this should be added an unknown amount of indirect, consequential and tort related losses that customers have suffered and reported through a claims process built for the redress. These claims can come from beyond the customer group at risk of over-collection, as customers could have suffered losses aside from direct over-collection – e.g. by agreeing to settlements on time-barred debt, by keeping customers in debt beyond the time-barring or by paying legal and default fees that should have been covered by the Bank
- Based on experience from previous remediation project, EY assesses that the risk of a large number of customers filing claims for indirect losses is low
- Plesner concludes in their memorandum "Set-off right in relation to debt collection on an unjustified basis", that Danske Bank is legally obliged to compensate customers according to the Danish Interest Act section 5
- Customers that are eligible to receive interest compensation as part of their redress either have no current debt, or no outstanding debt after offset is performed. See p. 17
- The Tax impact of the redress paid to the customer has to be agreed with the Tax Authority (probably in a binding ruling). Current assessment is however that if the Bank redresses beyond the legal obligation of 10 years, the redress will be taxable for the customers
- The incorrect tax filings on behalf of the customers have led to customers, potentially having had to high deductions in their tax income statements, which the Bank should repay to the Tax Authority on behalf of the customers. This is however deemed a minor issue as correct, internal tax marking (DK: "Restance markering") within the DCS and PF systems, has led to limited incorrect interests filings to the Tax Authorities
- Hence, with the level of uncertainty currently present, it is impossible to estimate the total financial impact for the Bank of the potentially incorrect tax filings
- Root cause specific examples of customers' tax handling and proposed redress methodology are being presented to Tax Authority to achieve approval (and binding ruling) on taxation of redress and adjustments in tax filings
- It should be noted that re-assessment of the tax assessments will involve substantial burdens and challenges for the customers, the Danish Tax Authorities and for Danske Bank
- EY recommends to align the redress methodology with the BAU correction approach to insure consistent treatment of customers independently of whether they need redress or not (e.g. during offset)

Question 5: Remediation plan

- As the customer cohorts have been identified and the analysis signed off by the Steering Committee, EY propose to initiate the execution of the remediation
- Due to the limited scope of customers (24,000 est.) and size of over-collection (DKK 1,600 on average) a direct communication to the impacted customers is recommended
  - A series of training material and IT tools should be developed to ensure proper support for the first line organization to qualify the dialogue with customers. The tool for the claims process would have to be developed, tested and deployed quickly and prior to Day Zero
- In the letters to the entitled customers they will be asked to substantiate indirect losses within a time limit (suggested 4-6 weeks). Further, the letter will contain information about the expected compensation amount
- A revised programme governance structure has been put in place to effectively realize the ambition of completing the remediation of the two customer groups not entitled to a compensation ((i) & (ii)) by end of Q2 2021

[1] Although, customers entering DCS in 2004 have to be manually reviewed regardless of repayment ratio due to root cause 3 and 4 | [2] See p. 12 for further description of estimate |
[3] Moving number as further calculations are performed, further additional redress is possible due to indirect losses

Ensuring that no new over-collection cases are created is a prerequisite for executing a remediation. EY review has identified a manual working process

- Evaluating the current correction process* put in place since 16th of July 2019, revealed a manual but working processes that enforce control and avoid generation of new over-collection cases

Process risks

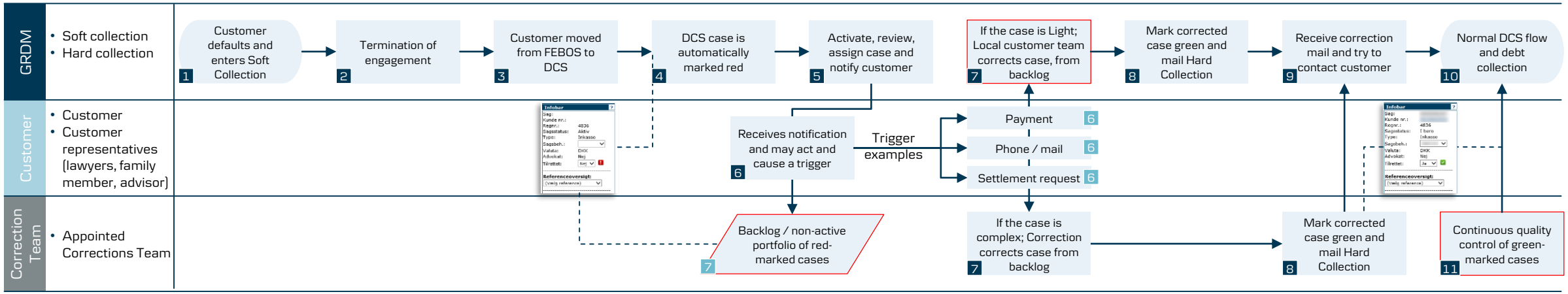
EY has assessed associated risks and concludes the following:

1. The process has few controls and has not been subject to an internal risk assessment yet
2. Local customer teams can immaturely mark Light cases green or use non-standardized operating procedures compared to the procedures applied in the Correction Team
3. Resource constraints prevent the Correction Team from handling cases proactively which increases the backlog of in-active cases which could expire down the line if not attended to
4. Seemingly correct green DCS cases could be wrong since quality control is conducted once a month
5. Customers could repay the debt based on information previously taken from Netbank or annual tax return (rare but could happen) which could lead to over-collection
6. Customers could have been granted debt relief, which had been judged before 17th of June 2019, and fulfills his/her obligations leaving Danske Bank with more money than they should
7. Untimely re-submission of estate and bankruptcy cases could cause the executor to process the case based on incorrect claims

Has the tap been turned off?

EY has not been able to find cases that would increase the volume of redress, but…

- Assessment has shown that there is a risk that the current mitigation process could generate new cases of over-collection
- EY has reviewed 100 new cases and not been able to identify any amongst these that have led to over-collection, but EY concludes that the process lacks controls and 2nd line review
- EY recommends independent review from 2nd and 3rd line and tight process control going forward, but do not recommend that this should stall the redress execution as no evidence of over-collection have been found



*See appendix pp.31-32 for process description and further details | **Process steps that poses the biggest risks have been marked with red in the process flow illustrated above

Four root causes have led to the majority of the issues identified, however five side issues have been identified and investigated

	home fees	GDPR concerns	Country dimensions	RKI reporting	Court cases / DCAs
Description	• Documented practice within GRDM never to negotiate fees with ***home*** when approving property deals • Undocumented practice when approving property deals in insolvent estates where GRDM have recommended ***home*** to the estate handler, despite the existence of lower offers from competitors	• Processing of incorrect data is not adherent to the GDPR regulation and a fine is plausible (2.5-7.5 mDKK) • Some customers could be entitled to redress (10-20 tDKK), if they can justify a loss i.e. tort • Processing of incorrect data does not require the Bank to proactively communicate to all customers	• The four root causes have not had an impact beyond Denmark as manual processes have mitigated the incorrect data in DCS • The other side issues investigated in Denmark can as result also be ruled out	• Customers who are unrightfully (or with incorrect data) reported to RKI, can claim a loss and should be entitled to a redress • The Bank is under no regulatory requirement to report customers that are sent for debt collection to RKI	• **Court cases:** Legal proceedings conducted prior to June 17th 2019 are potentially based on incorrect documentation • **DCAs:** Flaws in the data flows between Danske Bank and DCAs can lead to discrepancies in the customer's payment status
Analysis Phases	**Status – 28-Feb**	**Status – 28-Feb**	**Status – 28-Feb**	**Status – 28-Feb**	**Status – 28-Feb**
	• SteerCo decision to resolve ***home*** issue within a separate project, coined Project Agency Fees • Quantitative analysis of property deals in insolvent estates is not started • Plesner is reviewing internal policies for managing conflict of interest	• Approved remediation principles entail treatment of GDPR losses as indirect losses, where a process to handle customer claims will be built • A panel will treat these customer inquiries and asses documentation of their indirect losses	• EY data team and local teams have performed data sample checks which found no cases eligible for redress • All local teams have documented their analysis, confirming there is no issue and was signed off by • EY has compiled documentation on SharePoint for 2nd line review*	• Approved remediation principles entail treatment of losses related to RKI reporting as indirect losses, where a process to handle customer claims will be built • A panel will treat these customer inquiries and asses documentation of their indirect losses	• **Court cases:** Quantitative assessment of closed cases with legal action since 2004 is initiated to estimate potential redress amount • **DCAs:** Data received from 2 DCAs. See appendix p. 33 for initial analysis and current findings

Comments	• Plesner assessed that a case-by-case approach is required to determine whether Danske Bank has incurred liability towards the affected customers using ***home***
	• EY has built a financial model to narrow the scope of potential redress worthy property deals (based on voluntary deals only)
	• Compensation can either be based on individual assessment or model
		• Plesner has not covered the potential consequences related to personal data transferred to 3rd parties
		• Danske Bank Group Deputy DPO and Regulatory Affairs to liaise with Plesner and coordinate communication to the DPA and/or DFSA to get sign-off on approach
			• SteerCo decision to close the issue regarding root causes in DCS pending positive 2nd line review
			• Once approved, Project Athens (Regulatory Affairs) should notify local FSAs
			• This will reduce remediation scope to Denmark and allow discharge of country representatives in Operating Committee
				• EY concludes that the likelihood that a customer has been reported to RKI with a time-barred principal is very low, and hence that the error is confined to the root causes	• Adjacent to Triage stream, three EY resources have been onboarded to uncover:
					  • # of outsourced cases
					  • # of cases with mismatch
					  • Average deviation as % of principal
					• EY recommends to include the mismatched customer cohort in the portfolio for redress, and investigate further

Further concerns include incorrect charged legal fees, conduct related losses and incorrect settlements which will be further investigated. See next page

Additional potential side issues analysed prior to Day Zero

- EY has applied the same procedure utilized to investigate the Country Dimension issue, which overall involves *Planning, Analysing* and *Execution* Phases
  - Planning: Mobilize dedicated team, draft action plan, conduct initial interviews and gather necessary data for analysis
  - Analysing: Analyse and evaluate collected data within dedicated team and with business SMEs
  - Execution: Finalize report and supporting audit trail and utilize report as a guideline for (potential) compensation and/or implementation according to remediation principles
    - Responsibility and completion of the last phase (*Execution)* is handed over to internal Danske Bank project managers

#	Investigation Topic	Description – based on output from work sessions conducted during Q4 2018 to Q3 2019 with representatives from GRDM, Group Non-Financial Risk and Compliance
#1	Legal fees allocated towards court cases	• Clarification needed on the process for how legal fees and allocated towards court cases and who is responsible (Danske Bank or customer) for the fees • Current understanding is that fees are paid by customers although they should be paid by Danske Bank
#2	Interest rate on defaulted mortgage loan	• If the customer has obtained the mortgage from Realkredit Danmark (RD) through referral from local Danske Bank branch, then an agreement in place between RD and the bank stipulates that the bank has to provide a 20% guarantee towards RD in case the mortgage defaults. The interest rate on the debt owed to RD and the bank will often differ
#3	Outsourcing to DCAs	• Issues of concern requiring further investigation into case handling, customer agreements, payment visibility, DCA financial reporting, proper reconciliation of data between the bank and DCAs and data flow between DCAs and Danske Bank
#4	Court cases involving other creditors	• Issue regarding cases which have gone to court with incorrect data and where decisions made on allocation of estates have impacted other creditors
#5	Legal fees incorrectly merged with principal	• Issue regarding cases where court fees have incorrectly merged with the principal amount (similar to RC1)
#6	Treatment of ill customers	• How do we process customers who have gone into default, then paid towards their debt after which they become ill rendering them not able to pay? Are these customers allowed to go into default a second time?
#7	Interest application in DCS & PF	• Issue regarding cases where the correct procedures have not been followed in order to adhere to limitation rules, various products, effect on cases of not following happy-flow patterns, effect on customer agreements if interests have affected principal, rates and market changes
#8	Central bookkeeping and Group Finance	• Item of interest related to (1) supplementary booking process and (2) information flow between group finance and central bookkeeping. More clarity required on the topic of information flow between the two • Identification of additional stakeholders (Group Finance). Further work required to understand full impact on Group Finance
#9	Risk markers practice	• Potential issue linked to process of how we manage markers: if markers are not in place and we provide credit to customers where we should not; or if markers remain for longer than necessary and customers stay in bankruptcy for longer than required
#10	Evaluation and use of Tableau data	• Potential issue as Tableau data is used for various decision making processes (i.e. data feeds into risk assessments). Due to further lack of analytical competencies and GRDM expertise in those who are reviewing such data, potential risk lies with what conclusions we are drawing out of the tableau data (in particular related to risk assessments)

Customer Concern Technical Concern Process Concern

Project Athens - **Question 2**

Status on remaining potential side issues

Phases

Planning → Analysis → Execution

Overall status – (and path to green)

- Planning phase complete; Analysis phase nearly done while considering each issue's potential impact on redress
- Confirmation that side issues will not impact Day Zero as pilot customers have been adjusted accordingly
- Handover of non-Athens side issues with no impact on Day Zero or redress initiated

Side issue	Analysis status	Comments	Impact on → Day Zero/Redress		Closed / Open
#1 Legal fees allocated towards court cases	On track	Sample check indicates that higher than allowed legal fees has been charged to some customers. Implicated customers removed from pilot. No issue for PF	High impact on redress as the correct legal fee requires case investigation	Impact on Day Zero / Impact on redress	Open
#2 Interest rate on defaulted mortgage loan	On track	Review interest rate practice in PF. Handed over to	No impact	Impact on redress	Closing
#3 Outsourcing to DCAs	Completed	EY separate DCA report is finalized	No impact on pilot payout, but will impact redress in subsequent batches	Impact on Day Zero / Impact on redress	Closing
#4 Court cases involving other creditors	On track	Potential liability towards other creditors. Plesner has provided legal opinion on how to address issue and potential liability towards third parties	No impact on Day Zero but redress of other creditors is likely	Impact on redress	Open
#5 Legal fees incorrectly merged with principal	Completed	Confirmed no systemic issue for DCS and PF	No impact on Day Zero or redress	Impact on Day Zero	Closing
#6 Treatment of ill customers	Completed	No legal conflict. Issue is related to conduct. A Conduct Risk policy draft is due year-end, that will reference protection of vulnerable customers.	No impact	Impact on Day Zero	Closing
#7 Interest application in DCS & PF	On track	No systematic errors in interest application in DCS and PF. However, interest rate practice in PF needs review (same outcome as side issue #2')	No impact	Impact on Day Zero	Open
#8 Central bookkeeping and Group Finance	On track	Root causes in DCS have potentially resulted in inaccurate reporting in the Bank's central bookkeeping system (KRS). PF needs further investigation	No impact on Day Zero or redress	Impact on Day Zero	Open
#9 Risk markers practice	Completed	The Bank received an injunction based on its manual risk marker practice some years ago. New SOPs and policies have been implemented to mitigate risks	No impact on Day Zero or redress	Impact on Day Zero	Closing
#10 Evaluation and use of Tableau data	Completed	Known issue since 2018 and mitigating actions has been in place since. No formal risk assessment seems to be conducted based on GRDM data exhibited in Tableau. Separate track is already working to resolve data feed issues	No impact	Impact on Day Zero	Closing

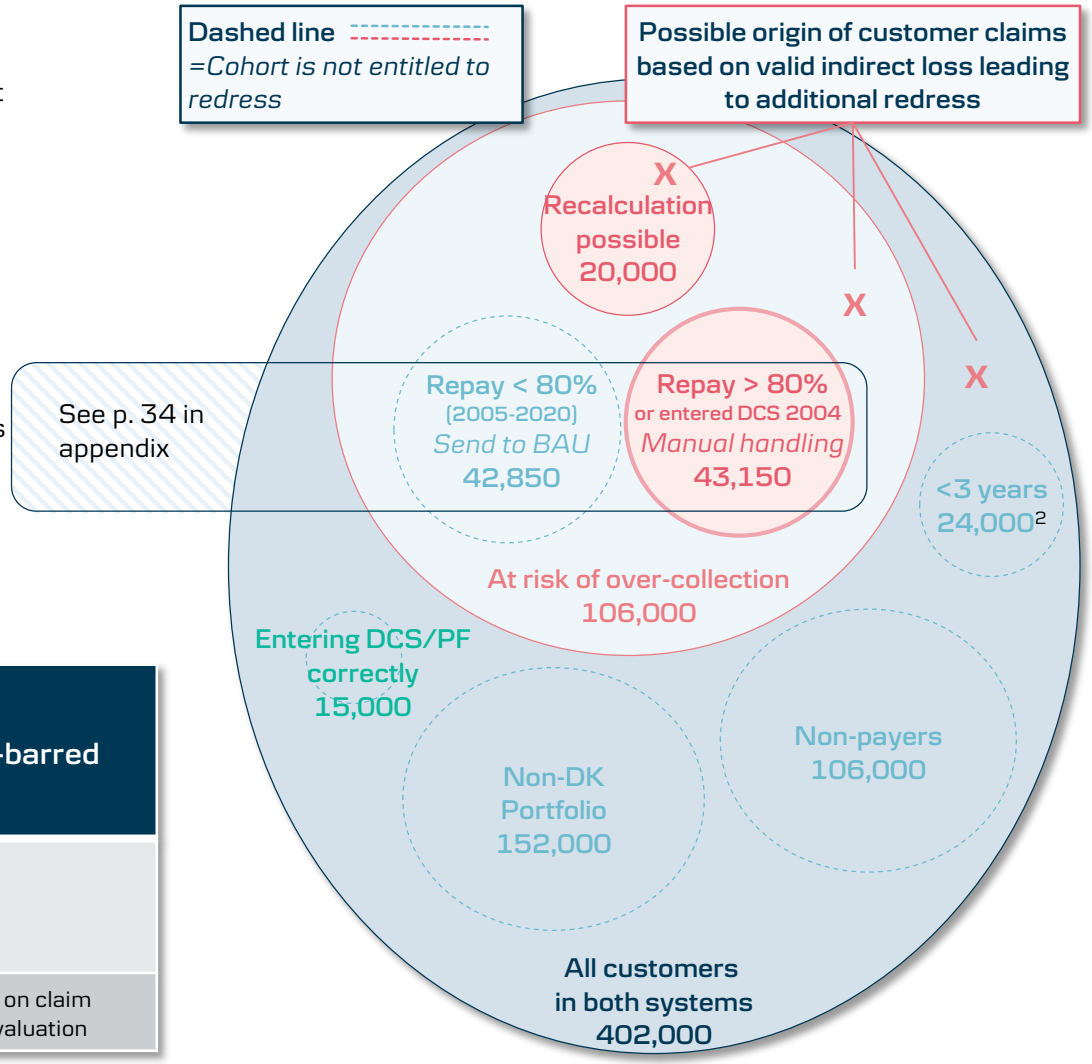
On track · Requires Attention · Not on track, requires attention · Completed

= Impact on Day Zero

= Impact on redress

Segmenting the customers into cohorts and splitting between direct and indirect losses

- On top of direct losses from over-collection indirect losses should be redressed as well, which creates an dependency upon a loss committee
- Of all the customers (402k) who have been in the two systems, 106k have been affected by the four root causes to such an extent that they have potentially been subject to over-collection
- 42.85k customers of these have paid less than 80% of their principal and impact from root causes are assumed to be offset in their remaining debt[1]. These are therefore sent to the line organization for data cleansing, but out of scope for redress
- Of the remaining 63k customers, 20k of these can be recalculated as loan data exist in electronical format
- The last 43,15k have to be manually reviewed to determine whether they are entitled to a redress
- These customers should be redressed based on the direct loss that the Bank have caused them, however indirect losses exist beyond this customer group
- Pp. 10-11 contain a summary of all concerns that potentially could have caused losses to the customers (home fees, GDPR concerns, settlements, etc. are examples hereof)
- EY has created a model that will identify the over-collected customers and calculate the direct loss that the customer is entitled to in redress
- This should form the basis for the redress, but all customers can potentially substantiate any indirect loss they have suffered. As such, it is necessary to inform all customers that are identified with incorrect debt registered in DCS and PF so the customer is able to state a claim of indirect loss



Scope for redress cohort	Valid			Time-barred
	Non-payers	Offset possible	In scope for redress	
Direct loss	Excluded as over-collection is not possible	Excluded as impact from root causes can be set off in the remaining debt	Identified through EY model and entitled to redress	Is included
Indirect loss	Depending on claim type and evaluation	Depending on claim type and evaluation	Depending on claim type and evaluation	Depending on claim type and evaluation

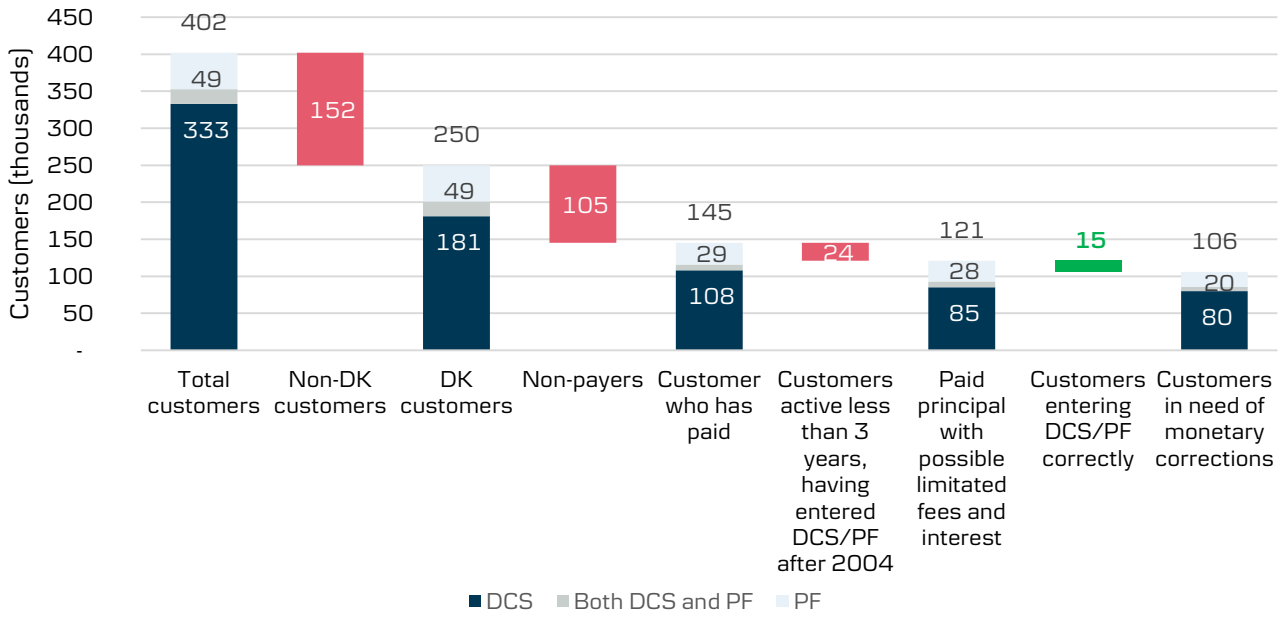
[1]See p. 34 in appendix I [2]p. 35 in appendix for further description of the filter removing customers active less than 3 years in the systems

Customer segmentation – Top-down logic for identifying customers in scope and at risk of customer impact

- Before calculating potential impact, the customer population can be narrowed down to customers that are in scope, where calculations are feasible, and where monetary corrections are needed – resulting in 24,000 customers that are at risk of an impact

Waterfall of customers potentially in scope

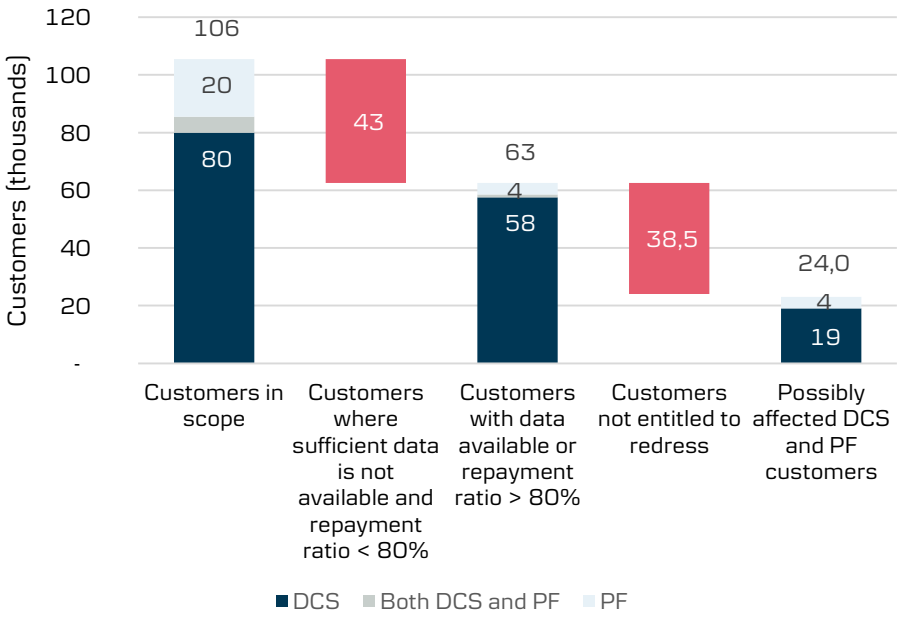
Number of customers in scope



The waterfall above shows how the total population of customers in DCS and PF can be narrowed down to the customers that are potentially in scope. Customers are filtered out if they are registered in DCS in other Group countries (Non-DK customers), haven't paid anything or have been active less than 3 years in DCS after 2004 and entered PF less than 3 years ago, as well as customers where no issue was identified. The resulting 106,000 customers are considered in scope.

Waterfall of customers ultimately at risk of impact

Number of customers at risk of over-collection

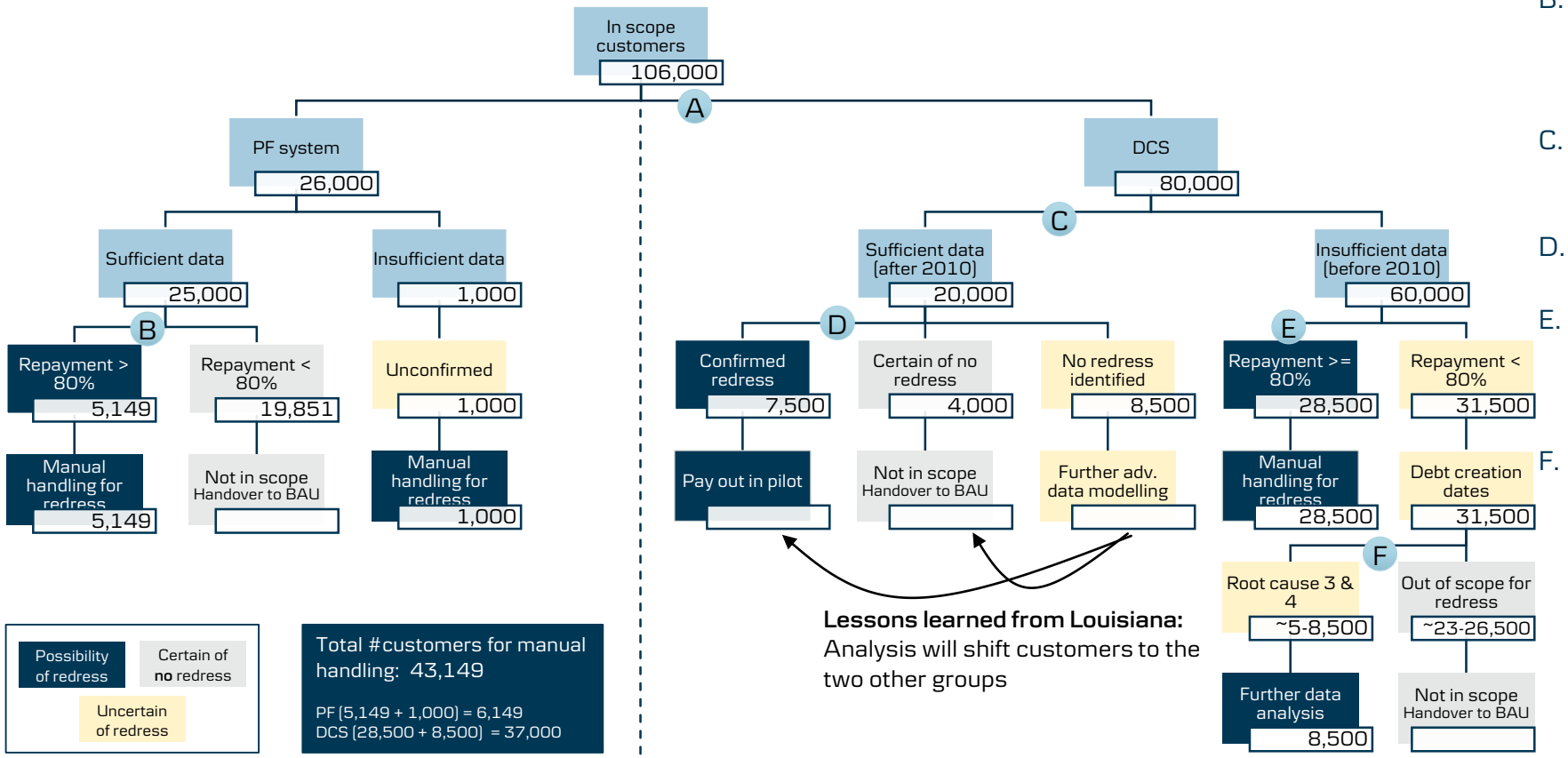


The waterfall above seeks to further reduce the number of customers to focus on customers that are likely to receive a compensation. Estimation of impact will be performed on these, taking potential offset in remaining debt into account. Please note that customers entering DCS in 2004 are part of the 63k cohort illustrated above regardless of their repayment ratio which is due to the potential impact from root cause 3 and 4.

It is now becoming possible to indicate the volumes and means to redress relevant customers. Further analysis including manual review required to provide precise picture

Breakdown into customer redress actions or non-actions

Entire customer portfolio – no 10 years limitation



Lessons learned from Louisiana:
Analysis will shift customers to the two other groups

Infliction point logic

A. Account for ability to apply advanced modelling for analysis in DCS system

B. Apply empirical data about overpayment ratios, including uncertainty factor, to exclude customers extremely unlikely to be in scope for redress

C. Apply detailed data modelling where transaction data quality enable accurate answers

D. Apply advanced data modelling to identify customers relevant for redress

E. Apply empirical data about overpayment ratios, including uncertainty factor, to exclude customers extremely unlikely to be in scope for redress

F. Analyse debt creation dates to identify root cause 3 and 4 issues

i. For RC3, all previous BG cases[1] are identifiable and are potentially exposed to RC3 – this amounts to 5,000

ii. RC4 can not be readily identified in the data but exists in the form of physical case documents. These amounts to 6,000 cases where 50% have been checked resulting in 10 cases in scope for redress

[1]Legacy cases from BG Bank. BG Bank became part of Danske Bank Group in 2001 as part of the merger with Realkredit Danmark. In 2007 BG bank was discontinued

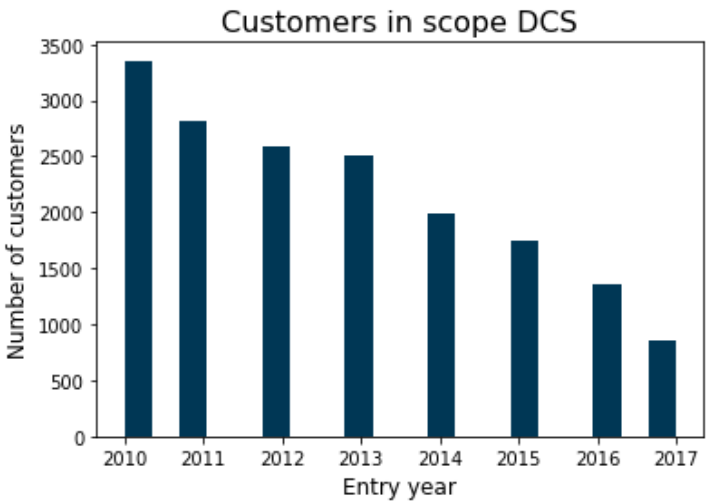
Financial impact analysis - Bottom-up estimation of over-collection in DCS where re-calculations are possible

For customers in DCS with available FEBOS data 20,000 customers are at risk of over-collection

Cohort characteristics:

The cohort consists of ~18,800 private customers and ~1,200 corporate

Out of these ~7,500 customers are estimated to be entitled to redress



For the customers in scope where transaction data is electronically available, the customers entering DCS earlier are more probable to be affected by over-collection

DCS is affected by root cause 1-4

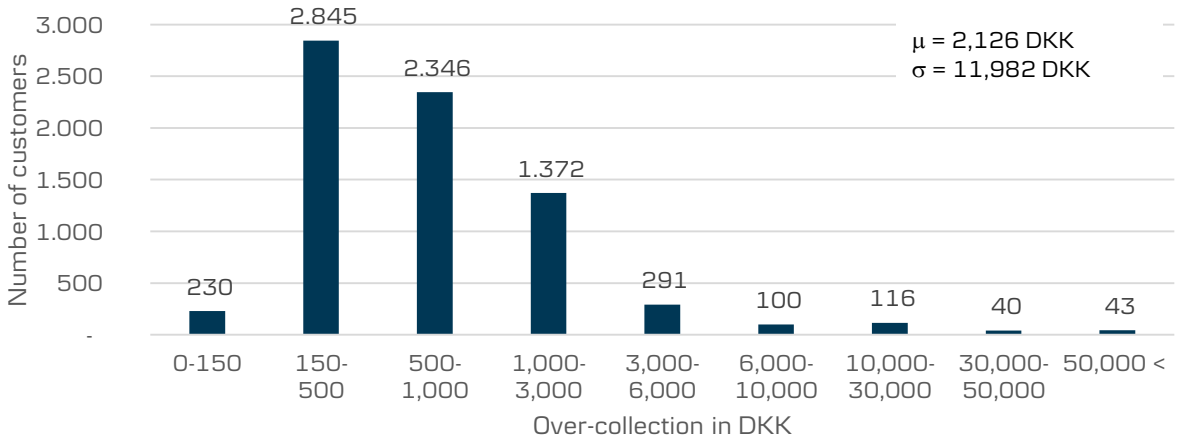
Over-collection estimate: 11.6 mDKK

The estimate of over-collection amounts to approximately 11.6 mDKK excluding interest compensation (for time value of money), but accounting for set-off

The individual over-collection is at an customer level and log-normally distributed as shown below

Distribution of estimated over-collection

DCS customers with available FEBOS data (7,383 customers)



Financial impact analysis – Estimated over-collection from customers in scope for manual handling*

For customers where manual handling is required, the total number of customers at risk of over-collection is equal to 43,150

Cohort characteristics:

These customers have repaid at least 80% of their principal (except customers entering DCS in 2004 that are potentially impacted by root cause 3 and 4)

37,000 customers are in DCS. However, assuming similar characteristics as cases with available FEBOS data (previous page) **~11,500** customers are estimated for redress

6,150 are in PF and likely to be entitled to redress

Over-collection estimate: 38 mDKK

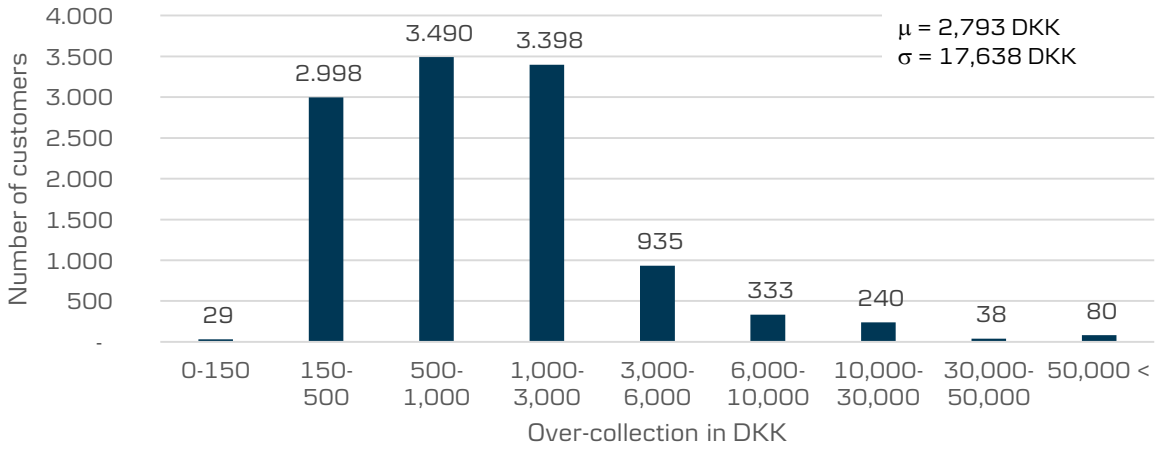
DCS: 25 mDKK

PF: 13 mDKK

DCS

Distribution of estimated over-collection**

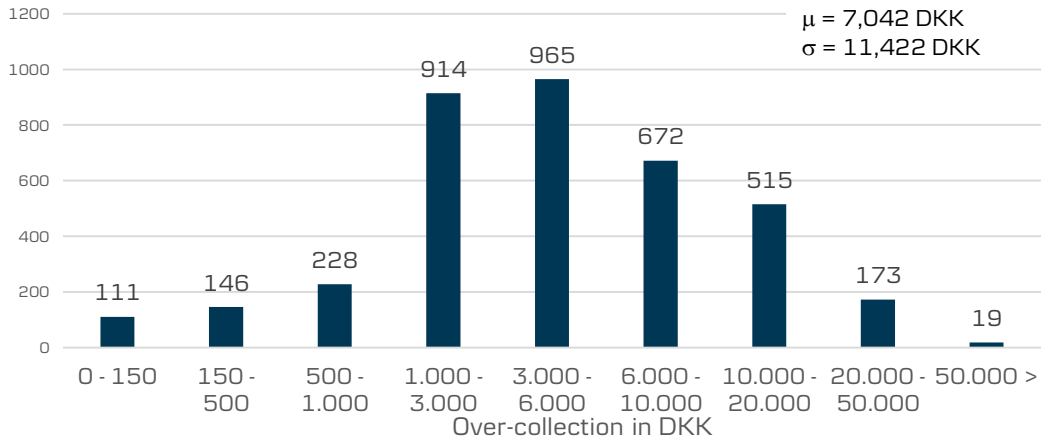
Customers with repayment ratio > 80% estimated to be entitled to redress (11,541 customers)



PF

Distribution of estimated over-collection

Customers with repayment ratio > 80% estimated to be entitled to redress (5,149 customers across 3,743 cases)



*All over-collection estimates on this page is based on statistical estimates I

**The estimated over-collection is based on the assumption that the cases follow the average characteristics identified by the cases with available electronic FEBOS data

Costumers will be compensated for time-value of money by adding a interest compensation to their redress

Plesner concludes that Danske Bank is legally obliged to compensate customers[1] according to the Danish Interest Act section 5

Customers included in pilot will receive interest compensation accordingly

Interest compensation is calculated as simple interest (i.e. not compound)

The rate will equal the official lending rate (stated semi-annually) plus a surcharge of either 7% or 8% p.a. dependent on the vintage of the customer's claim (see below)

The lending rate varies significantly over time – se development illustrated in graph to the right – and have been equal to 0,5% p.a. since July 2015

See appendix p. 36 for more background on legal basis and implementation of interest compensation principles and calculation of sample case on pp. 37-38

Lending rate

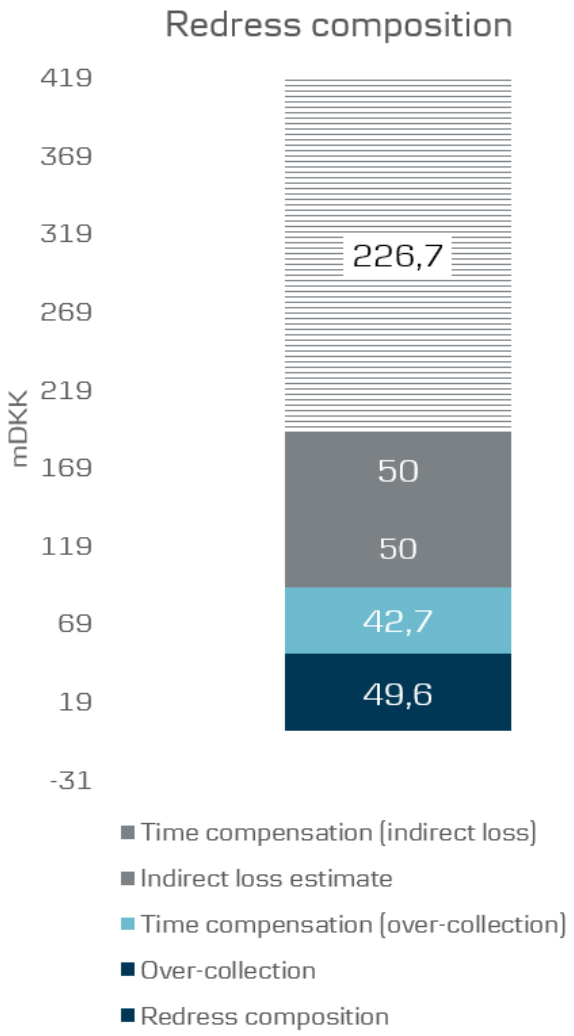
Kilde: Danmarks Nationalbank

March 1 2013

7% + lending rate	8% + lending rate
Before	After
Customers with claims arising **before** the 1st of March 2013 will receive official lending rate plus a surcharge of **7%** p.a. as interest compensation	Customers with claims arising **after** the 1st of March 2013 will receive official lending rate plus a surcharge of **8%** p.a. as interest compensation

[1] Customers that are eligible to receive interest compensation as part of their redress either have no current debt, or no outstanding debt after offset is performed

Financial impact analysis – Redress composition



Over-collection

Over-collection is just one of the parts of the redress amount for a customer. Over-collection stems from the four root causes identified

For customers with electronically available FEBOS data over-collection is estimated to 11.6 mDKK

Customers in scope for manual handling in PF, over-collection is estimated to 13 mDKK

Customers in scope for manual handling in DCS, over-collection is estimated to 25 mDKK

In total, estimated over-collection amounts to:

49.6 mDKK

Interest compensation

Interest compensation is paid to eligible customers as a time compensation for the period that Danske Bank had collected the debt on an incorrect basis.

The estimate provided below uses the minimum of when the debt entered DCS or PF and 10 years.

See appendix p. 36 for more background on legal basis and implementation of interest compensation principles. Appendix pp. 37-38 contain walkthrough of a sample customer case from the pilot batch (case 'H') incl. the interest compensation calculation

Estimated interest compensation for over-collection:

42.7 mDKK

Indirect losses

Indirect losses refer to any loss incurred as a consequence of identified root causes

Indirect losses will be gathered through the claims process that the programme will establish prior to Day Zero

No statistical modelling has been made to estimate the amount of these indirect losses. While EY expects that the number of claims will be limited the claims that do arise are, however, expected to be significant. EY estimates the indirect losses to 50 mDKK - although a lot of uncertainty is tied to this number

Adding a conservative time compensation of 50 mDKK, puts the combined indirect losses at approximately:

100 mDKK

Financial impact analysis – Tax impact

Tax impact (high level)

Direct tax effect

Wrongfully collected debt which according to Danske Bank/Plesner was time-barred "Condictio Indebiti"

- Post 31 December 2009: Claiming refund of previously paid debt (interest, fees etc.), which is time-barred, may be reclaimed by the customer without taxation, assuming that the refund occurs less than 10 years from when the payment was made
- Prior to 31 December 2009: Repayment by the Bank to the customer of paid debt (interest, fees, etc.), which is time-barred, is taxable for the customer, if the refund occurs more than 10 years from when the payment was made. Such taxation will be based on a "gift-like" consideration

Interests

- Any interest (or time compensation) paid by Danske Bank to debtor on redress amount should be taxable as interest

Indirect tax effect

Interest and fee deduction

- Interests are generally deductible if the interest amount for previous years have been paid. Fees are as main rule not deductible but special rules may apply
- In some cases of wrongfully collected debt interest deducted is reversed when the Danish Tax Authorities re-assess within three years period (ordinary re-assessment deadline) when there is no arrears mark ("Restance markering")
- In cases where arrears mark has been made the debtor has not received deduction of interests. Information shows arrears mark occurred in 51% - 68% of the cases implying that a large part of debtors have not received interest deduction and therefore minimizing indirect tax effect
- Other indirect tax effects (if any) are still under investigation

Tax reporting

- Applicable to all customers in DCS and PF incl. debtors that have not paid on debt
- Based on examples, the wrong tax reporting appears in following cases:
  - Too large principal amount
  - Wrong debtor status
  - Interests amount
  - No arrears mark, etc.
- Currently being analyzed how to correct and how far back in respect of data and tax reporting rules

Recommendation

- Danske Bank to consider time period of redress amount given direct tax effects for customers prior to 2009
- Dialogue with the Danish Tax Authorities regarding direct and indirect customer tax effects and reporting correction approach
- Potential VAT issues should be analyzed further
- Binding ruling of the customer taxation of redress amount to be considered by Danske Bank
- Further work on root cause 1-4 examples to assess tax effect and additional root causes (if any)

Examples

RC1 *Principal, interest and fees collapsed*

Too high principal amount (incl. fees and interests) was transferred into DCS. The derived effect is that the accrued interest amount is too high. The debt may be time-barred and hence wrongfully collected

- "Condictio Indebiti"-claim is not taxable
- Interests on redress are taxable
- The tax reporting is flawed and should be re-assessed

RC2 *Incorrect debt origination date*

When transferred to debt collection, the default date and not the relevant due date was used as the origination date of the debt. Danske Bank wrongfully collected the debt ("Condictio Indebiti")

- "Condictio Indebiti"-claim is not taxable
- Interests on redress are taxable
- The tax reporting is flawed and should be re-assessed

RC3 *Guarantors and co-debtors treated alike*

- Currently pending as data search is complex

RC4 *Co-debtors charged full principal*

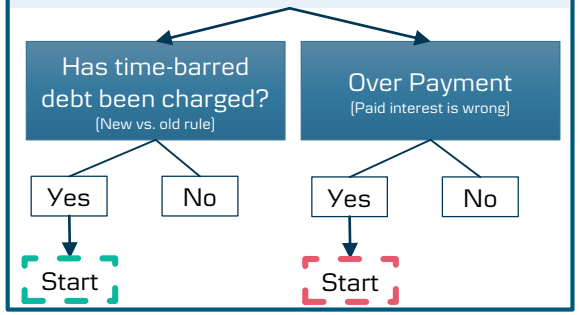
In DCS the debtor and co-debtor both were registered as main debtor. The debt was redeemed twice. Tax reporting of interests are non-existing but debt reliefs were agreed in 2016

- "Condictio Indebiti"-claim is not taxable
- Interests on redress are taxable.
- The tax reporting is flawed and should be re-assessed

Financial impact analysis – Overview of Tax consideration process

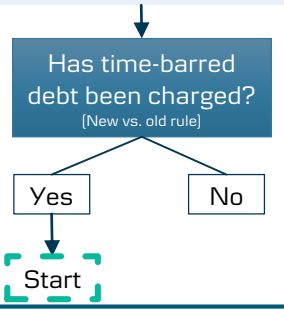
RC1 *Principal, interest and fees collapsed*

Accrued interest and fees are collapsed into the principal amount
Incorrect collection on limited interest / fees due to difference in limitation between principal and interest



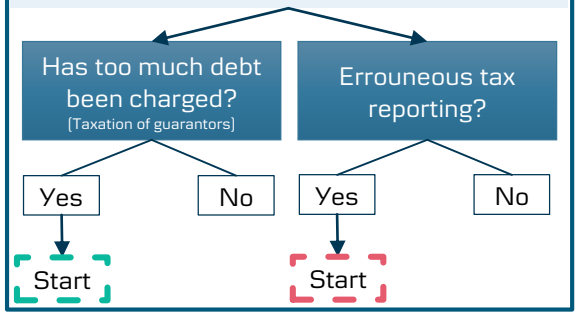
RC2 *Incorrect debt origination date*

When transferred to debt collection, the default date not the due date is used a origination date of the debt
Collection could happen on expired interest and principal



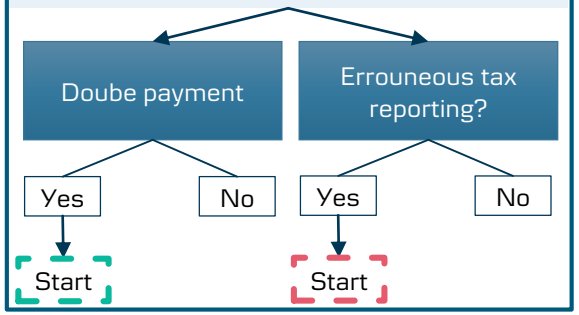
RC3 *Guarantors and co-debtors treated alike*

A guarantor would then appear as fully liable for the debt, and the bank would incorrectly treat both parties equally

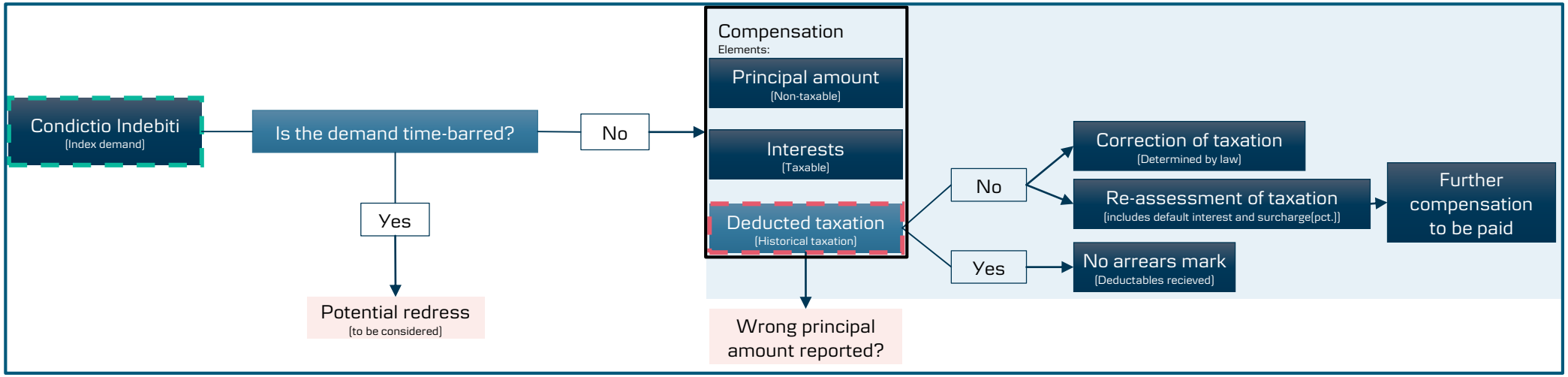


RC4 *Co-debtors charged full principal*

Full principal amount assigned to each co-debtor
Potentially full debt would then be collected from multiple debtors

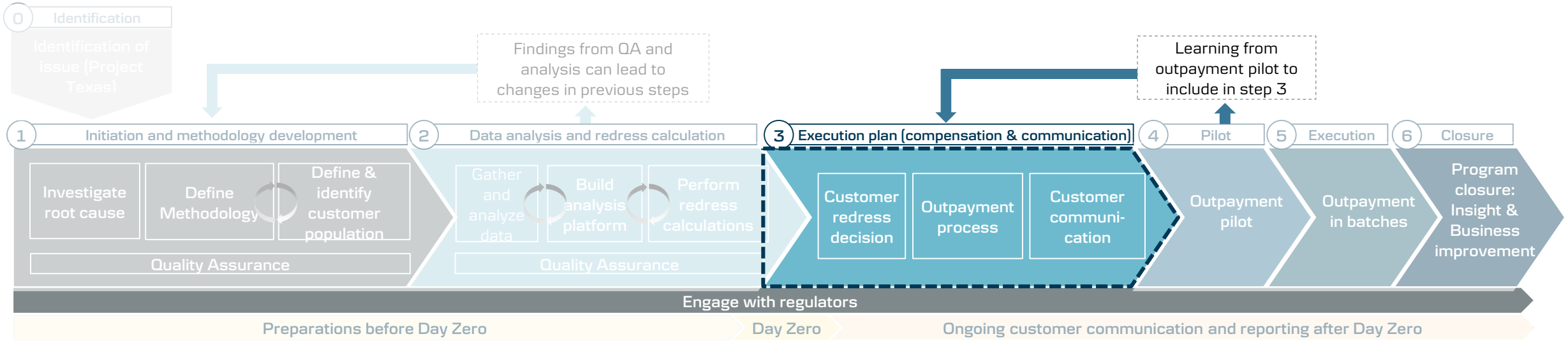


Combined proces flow



Project Athens – **Question 5**

The project will move into execution phase – Based from EY redress methodology



Main steps going forward

Current Focus

Calculation:
- Agree on indirect / consequential losses
- Estimate impact of DCA data

Communication:
- Coherent communication strategy with Authorities
- Secure data for key messages in public communication

Execution Phase

Compensation:
- Agree on date for Day Zero (proposed April 14 2020)
- Secure resources for execution, DOCS, Advisors, Implementation etc.
- Decisions on thresholds for calculations

Considerations

- Remediation principles must be approved before execution
- Certainty that no new over-collection cases are being generated during execution
- Agreement on scope setting parameters – triage stream execution closed
- Legal advise from Plesner on remediation and compensation principles
- Organisation and governance for execution in place

Calculation, Communication, Compensation

Communication planning towards Day Zero to customers receiving a compensation*

	PRE-PLANNING: → 28 FEB	PLANNING: 28 FEB – Day Zero	EXECUTION: Day Zero	FOLLOW UP AND OUTPAYMENT: Day 1→
	28. Feb: EY report		*Day Zero: June 18 2020*	
EXTERNAL (press and authorities)	*Ongoing dialogue with authorities and orientation of plans*	*Ongoing dialogue with authorities and update on plans*	*Orientation to authorities* *Update on Dansk Bank front page – see appendix p. 41*	*Monitoring of customer reactions, SoMe, politicians and press*
CUSTOMERS	*Development of communications plans and key messaging*	*Finalising communications plans and key messages with final data* *Development of materials for Day Zero*	***Letter is sent to customers included in pilot batch – see appendix p. 42* *Website regarding indirect claims with submission form – see appendix p. 41*	*Letter to customers that have submitted a claim based on indirect losses incl. conclusion on claim* *Notification to selected customers with incorrect debt incl. how it has been rectified*
EMPLOYEES		*Development of materials for advisors and debt collection management* *Development of look-up tool for advisors*	*Headlines* *Material for Danske Direkte/advisors + DCM* *Look-up tool for advisors (WOID)*	*Ongoing communication on outpayment process*

*See appendix pp. 39-40 for additional best practice methodology leading up to execution of Day Zero **e-boks is delivered within 1-2 days. Physical letters is delivered within 2-5 days

Remediation of customers that are not eligible to receive compensation on the basis of identified four root causes

A workstream dedicated to the remediation of customer groups (i) and (ii) will work towards identifying and rectifying customers with incorrect debt registered in DCS and PF

Remediation of customer groups (i) and (ii):

- Programme structure has been revised and simplified to ensure a clear remediation focus and speed of execution
- A programme plan has been outlined with expected completion Q3 2021, subject to changes. See timeline on next page
- Specifically, the purpose of the stream; 'Portfolio trimming & clean-up' is to rectify incorrect data on customers debt with expected completion end of Q2 2021, pending further investigation
- The programme is committed to ensure a suitable communication is delivered to the impacted customers:

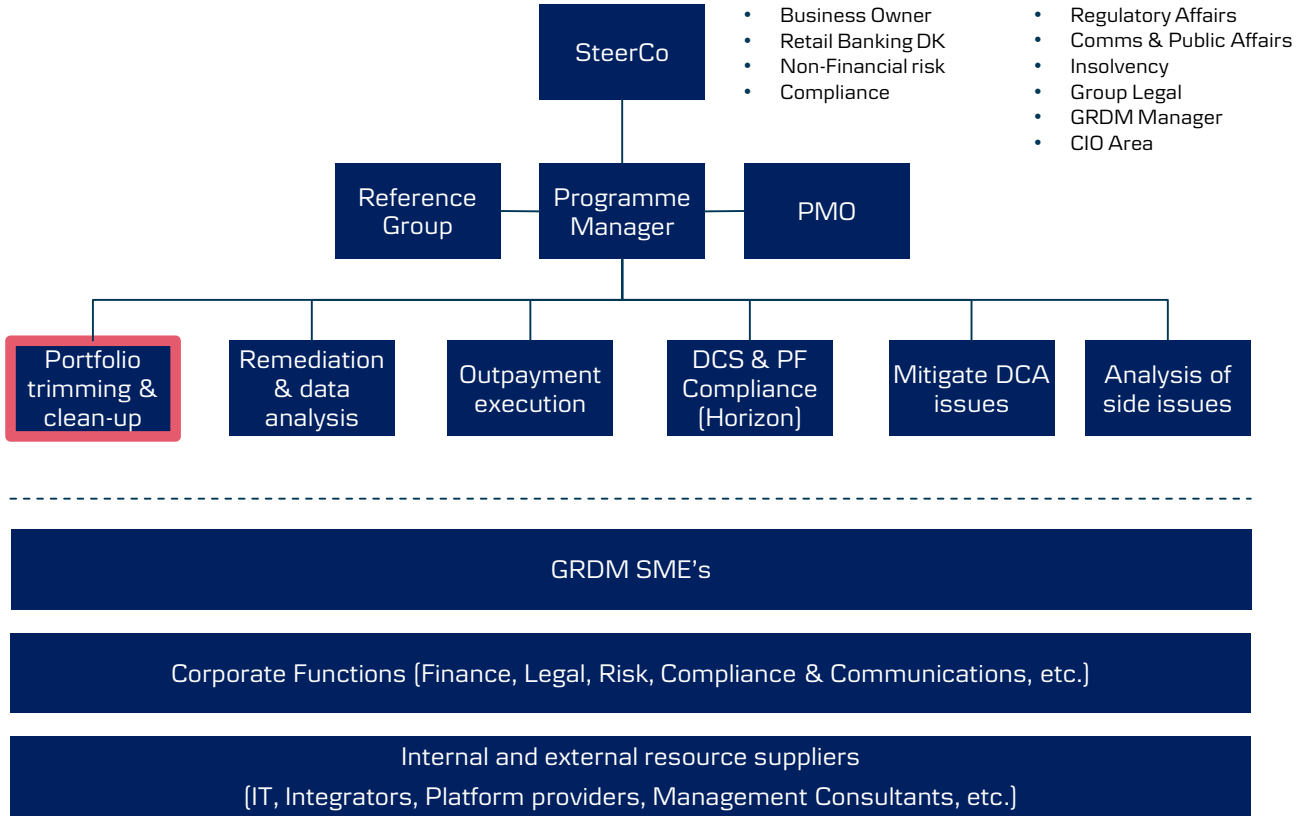
Customer group (i)

- Customers that have debt incorrectly registered, but not repaid any debt will be notified about the correction hereof

Customer group (ii)

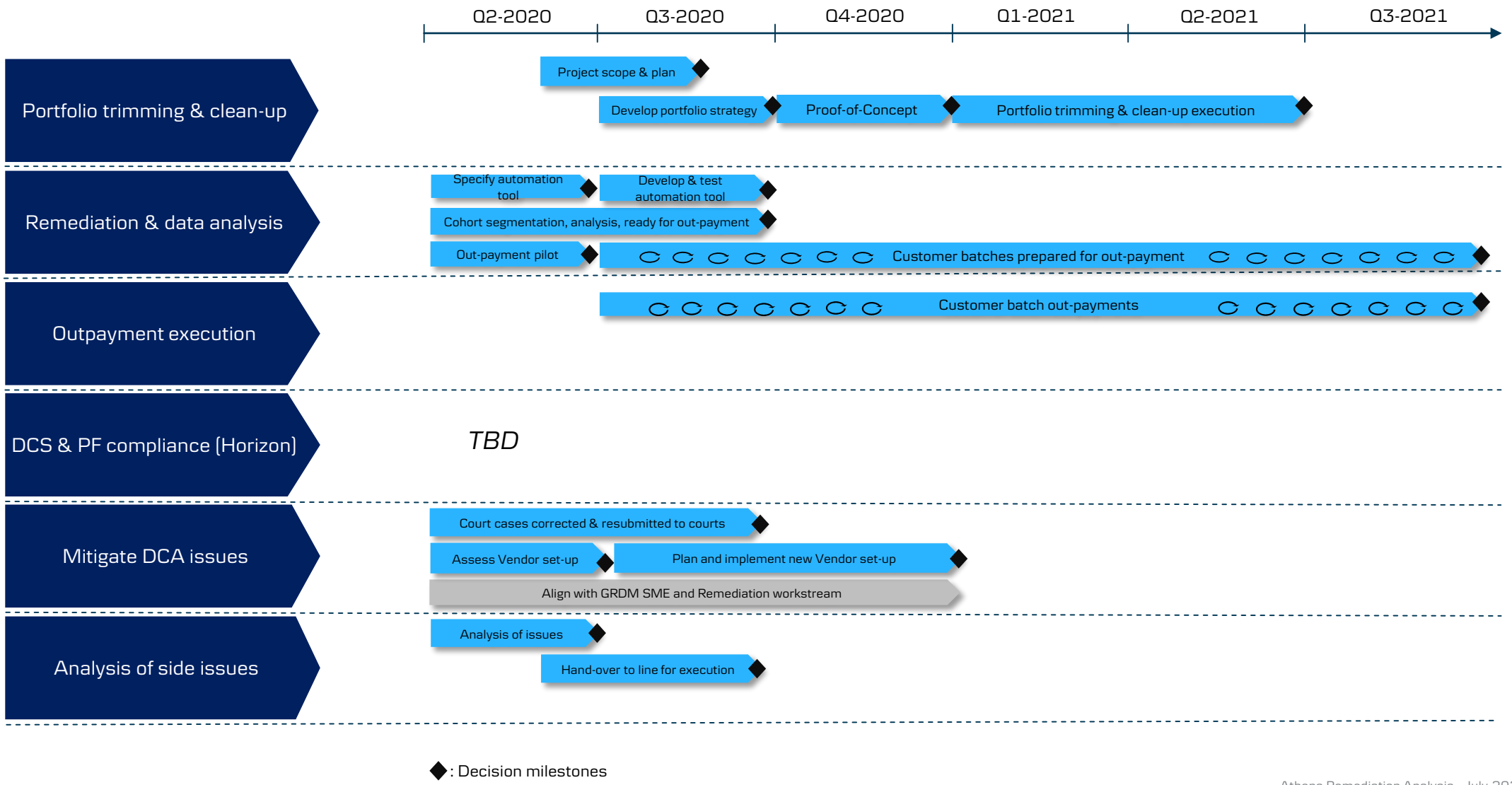
- Customers subject to over-collection, but have sufficient outstanding debt to allow offset will also receive adequate communication about correction of their case as they are identified and recalculated

Programme governance structure (June 2020):



Programme Athens timeline

Subject to changes following dialogue with regulatory bodies related to e.g. remediation principles, Tax treatment and further calculations etc.



◆: Decision milestones

Appendix

Appendix overview

	Page	Question
Examples of the four root causes	27-30	NA
Evaluation of correction process	31	1
Scope of the remediation	33	2
Customer segmentation	34	3
Financial impact	36	4
Remediation plan	39	5

Root Cause 1: Principal, interest and fees collapsed - Example

Situation description

a. When Customer A is transferred into DCS, the principal amount of 97,000 DKK is not moved into DCS's data field 3 – Principal. Rather, 102,000 DKK (interests plus principal) is incorrectly transferred to principal (field 3)
b. As a direct result, the interests of 10% PA is now being calculated on an incorrect principal amount > 100,000 DKK resulting in an even higher monetary amount left for Customer A to pay
c. Interest has a limitation of 3 years, and Principal has a limitation of 10 years. Danske Bank would ordinarily have 10 years to collect 97,000 DKK and 3 years to collect 5,000 DKK. Now that the combined amount is residing in Principal, Danske Bank runs the risk of loosing out of the interest amount of 5,000 DKK, for which they have no claim to after 3 years

Danske Bank tries to contact Customer A and sends reminders (fee) each month. After the 4th reminder, Customer A is transferred into DCS*

Customer A and Danske Bank agrees to a loan of 100,000 DKK with an interest rate of 10% PA, with quarterly accrued interests, starting the 1st of Jan 2018

Payment terms are that Customer A is to pay 1,000 DKK and the end of each month

Customer A diligently pays 1,000 DKK each month until Sep 2018, after which Danske Bank does not receive any payments

2018	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Monthly payment	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	No payment	No payment	No payment	No payment
Interests			2,500			2,500			2,500			2,500
Principal amount (primo)	100,000	99,000	98,000	98,000	97,500	97,500	97,500	97,000	97,000	97,000	97,000	97,000
Balance (ultimo)	99,000	98,000	99,500	98,500	97,500	99,000	98,000	97,000	99,500	99,500	99,500	102,000

DCS Data fields

1	Legal/court costs
2 10% PA	Interests
3 102,000	Principal
4	Acknowledge Interests
5	Accrued Interests

** For the purpose of this example fees are not included. Each reminder is 100 DKK and will eventually be put into DCS's Interest data field*

Root Cause 2: Incorrect debt origination date - Example

Situation description

a. Interest has a limitation of 3 years, and Principal has a limitation of 10 years
b. The incorrect origination date in DCS will make the debt appear 90 days younger than it actually is
c. The due date is wrong and shifted in the customers favor so the outdated interests will appear to have a 3 years and 3 months expiring period instead of the legal 3 years
d. Collection post expiration is therefore a large risk

Danske Bank starts to send Customer A reminders as no payment was received in Sep 2018

After having sent the 4th reminder to Customer A, Danske Bank transfers Customer A to DCS (maximum 90 days after first failure of payment)

DCS logs Customer A and his owed amount from the due date of the 4th reminder and not from the default date where Customer A first missed the payment

- *In the example, Customer A misses out on his instalment on 30-Sep-2018*
- *90 days passes, were 4 reminders are sent*
- *On 29-Dec-2018, Customer A defaults on his loan*
- *The advisor terminates the product and sends Customer A to debt collection*
- *In the transfer to DCS the default date and not the due date is used as origination date*
- *This leads to incorrect limitation*

30-Sep Due date ← 4 reminders → 29-Dec Default date

2018	Aug	Sep	Oct	Nov	Dec
Monthly payment	1,000	No payment	No payment	No payment	No payment
Interests		2,500			2,500

Danske Bank now has Customer A in DCS, but with the wrong origination date along with the wrong principal amount consisting of interests, fees and correct principal amount*

DCS Data fields

1	Legal/court costs
29-Dec 2 Limitation: 3 year	Interests
29-Dec 3 Limitation: 10 year	Principal
4	Acknowledge Interests
5	Accrued Interests

** For the purpose of this example fees are not included. Each reminder is 100 DKK and will eventually be put into DCS's Interest data field*

Root Cause 3: Guarantors and co-debtors treated alike - Example

Situation description

a. During the conversion into DCS in 2004 there were no differentiation between co-debtors and guarantors, as both (technically) needed an account in the system and no flag for marking them as guarantors existed
b. Hence the Bank was not able to distinguish the two from each other and could potentially be pursuing the full debt from both individuals, despite that the guarantor could by liable for a smaller amount
c. As a guarantee has to be called in order to be valid, the incorrect registration have led to incorrect collection

Customer B signs a loan of 200,000 DKK for her business and has Customer A as guarantor for 50,000. This is done before the year 2004

Danske Bank introduces the DCS system July 2004, leaving them with one consolidated system used for debt collection

Guarantors, such as Customer A, is treated as co-debtor and is incorrectly created in DCS as such

Legally the Bank cannot collect from Customer A till Customer B has defaulted, and the Bank will have to call the guarantee before collecting from Customer A

DCS Data fields

1	Legal/court costs
2	Interests
3 200,000 DKK	Principal
4	Acknowledge Interests
5	Accrued Interests

Customer B's debt is correctly migrated into DCS system during the conversion

Guarantor

Customer B is liable for 200,000 DKK

Customer A is guarantor for 50,000 DKK

Only Customer B owes Danske Bank 200,000 DKK

Guarantee is incorrectly migrated as debt of 50,000 into DCS, and he now appears as debtor

DCS Data fields

1	Legal/court costs
2	Interests
3 50,000 DKK	Principal
4	Acknowledge Interests
5	Accrued Interests

Root Cause 4: Co-debtors charged full principal - Example

Situation description

a. When data was converted into DCS in 2004, the link between co-debtors was in some instances left out
b. Hence the Bank was unable to correctly track the collection of the shared debt, and would treat the payments separately
c. There have been instances where settlements have been agreed with each part of the shared debt, leading to a combined overpayment

Customer B and Customer A collectively signs a loan from Danske Bank as co-debtors for 200,000 sometime before the year 2004

Danske Bank introduces the DCS system July 2004, leaving them with one consolidated system used for debt collection

Co-debtors, such as Customer B and Customer A, were created in DCS each with the full loan amount and with not linking between the cases

Potentially the collection team will now pursue both Customer B and Customer A for the full amount, even despite one of them might have paid it all

Co-debtors

Customer B is liable for 200,000 DKK

Customer A is liable for 200,000 DKK

DCS Data fields

1	Legal/court costs
2	Interests
3 200,000 DKK	Principal
4	Acknowledge Interests
5	Accrued Interests

When migrated to DCS, Customer A and Customer B are created as two separate cases without linkage

The co-debtors collectively owes Danske Bank 200,000 DKK

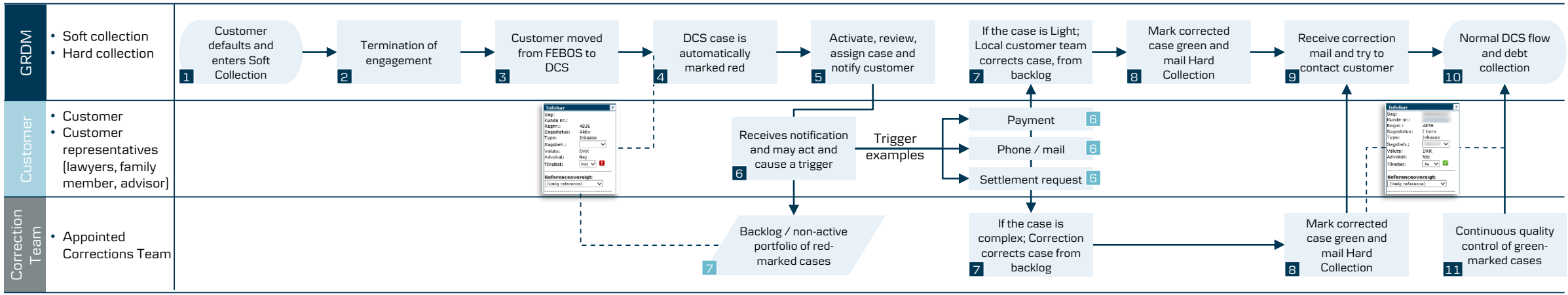
Hence the debt collection team will potentially collect the full amount from both Customer A and Customer B (double payment)

DCS Data fields

1	Legal/court costs
2	Interests
3 200,000 DKK	Principal
4	Acknowledge Interests
5	Accrued Interests

In order to ensure that no new over-collection cases are created, it is necessary to review GRDM's correction process including the implemented red/green case markings

- When Danske Bank became aware of the issues in DCS, GRDM implemented a manual failsafe process in order to minimize the risk of creating new issues
- In general, all Danish cases registered in DCS are considered incorrect and need correction before reaching out to the customer
- Each case transferred to DCS will (since 16th of July 2019) automatically be marked red, stating that it has not been reviewed by the Corrections Team
- Only cases that have been treated / corrected by the Corrections Team can be viewed as correct – exemplified by a green tick-marker post-correction
- Current correction process* since 16th of July 2019 looks as follows:



Flow description

1. An customer in FEBOS suddenly defaults on his loan e.g. missing payment and is moved to Soft Collection which initiates the Dunning Process
2. Dunning Process is unsuccessful and the engagement is terminated (4th reminder)
3. 10 days after termination the (customer) case is moved from FEBOS to DCS
4. When the case is registered in DCS it is automatically marked red
5. Hard Collection (Lithuania) activates the latent case in DCS, reviews the case, assigns the appropriate customer team if the case is deemed 'Light' or to the Correction Team ("Correction") if the case is more complex; the case is now in the backlog depository
6. The notified customer (or customer representative) could activate a trigger* (e.g. make communicative contact, make a payment or send a settlement request)
7. If a trigger is activated it prompts either the local customer team (Light) or the Correction Team to locate, review and correct the case from the backlog of cases
8. Once the case is corrected it is marked green followed by a mail to Hard Collection that the particular case has been corrected
9. After receiving the mail, Hard Collection seeks to contact the customer in order to address the specific trigger
10. Regardless if customer contact happens or not, the green-marked case is now following normal flow in DCS
11. As a quality measure, a list of green-marked cases are reviewed by GRDM each month in order to double check that the case has been handled and corrected the right way

* There are more triggers (externally and internally) but it is important to note that any handling of a red-case starts with a trigger

Project Athens - **Question 1**

Is it ensured that over-collection does not still occur despite implementing red/green mitigation process?

- Current correction process* since 16th of July 2019 looks as follows:

Get an overview of the case

- Locate a red-marked / non-corrected case
- Check basis information in DCS
- Determine expiration / statute of limitation for each account
- Assess which type of account needs correction (promissory notes, overdraft, overdraft facility etc.)

Correction of the case

- Review bank statements
- Conduct correction(s) by utilizing appropriate correction table

Immediate post-correction activities

- Create notification date for each stakeholder's CPR number pertaining the case
- Create playtast – predefined table for case comments

Apply mitigating red/green process

- When the case has been corrected, notification date and playtast has been correct, apply green tick in the overview image

Once a month a quality control of corrected cases marked green is conducted [redacted] If one or several elements are missing (e.g. notification date and/or playtest), the Corrections Team is alerted in order to rectify the administrative mistake

* "Vejledende løsning til tilretning – Sager efter 24.09.2044"

Outsourcing to DCAs has not significantly impacted data quality

Background for DCA stream

A task team within the project has been working to analyze and understand the data on customers who were outsourced to DCAs. The purpose is to determine whether or not the data quality is acceptable to proceed with the remediation project in its current form

Review of the outsourcing to Debt Collection Agencies (DCAs) shows that flaws are minor

The total number of potentially outsourced and active DK customers in DCS is estimated to be **40,500**. EY has received data from the four largest DCAs[1], which contained **21,700** unique costumers. The received data was then matched with data from DCS resulting in **20,750** matched costumers. **96**% of the matched customers had the correct status in DCS (i.e. active / closed). EY therefore concludes that the data quality issues with the DCAs should not postpone execution of remediation

How the initial analysis was carried out

For this analysis EY built a total overview of the data in DCS. From here EY:

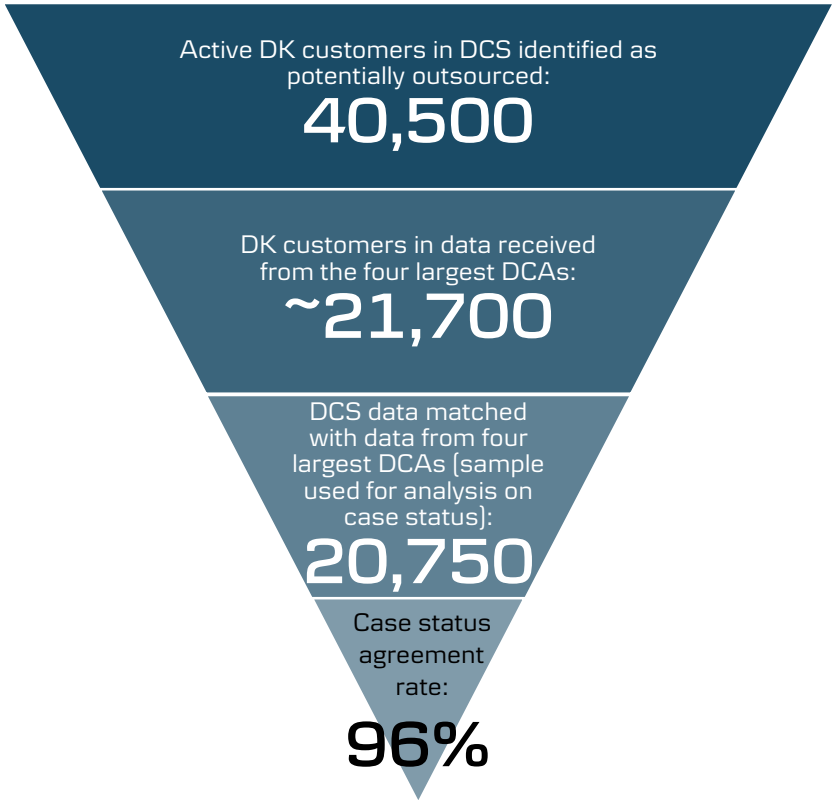
1. Isolated potentially outsourced data for the DK organization
2. Identified and focused on data associated with the 4 largest DCAs
3. Matched outsourced DCS data with data received from the 4 largest DCAs
4. Compared the case status between the matched DCS and DCA data

Throughout this process EY has validated relevant data and aligned across all EY data teams on the DCS project. Furthermore, EY has sparred with Danske Bank SMEs

Next steps

The next steps are to:

1. Deep dive analysis of the exhaustive data foundation (a large sample was investigated for this analysis)
2. Analyze the data flow between Danske Bank (DCS and PF) and the DCAs



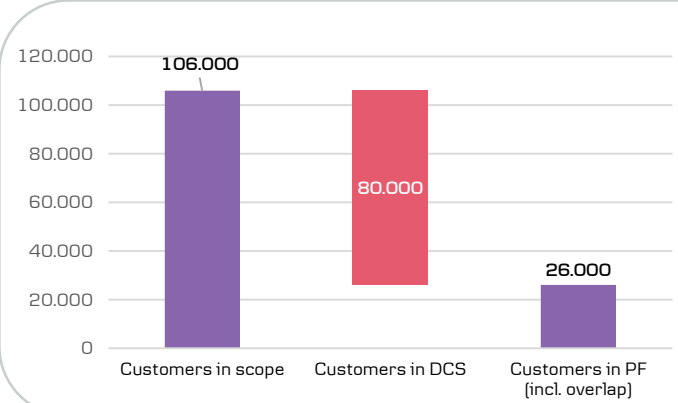
Bias in data

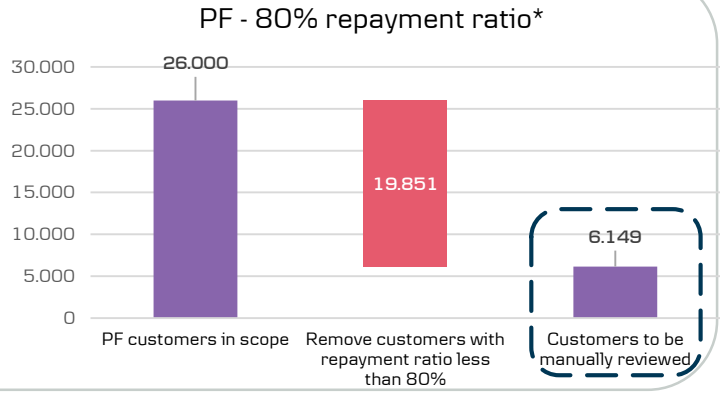
Initial analysis of sample data has shown a modest error rate. However, EY needs to understand the rest of the data foundation and although the error rate is likely to resemble the sample error rate, further analysis is required to ensure that this is the case

The 106k customers in scope can be split between DCS (80k) and PF (26k)
A repayment ratio of 80% will yield 43,150 customers for manual handling

PF

- 26,000 customers in PF system are in scope for redress
- A repayment ratio (percentage of principal that has been repaid) of 80% will yield 5,149 customers to be manually reviewed
- This is under the assumption that lower repayment ratios will ensure that possible corrections can be offset in the remaining debt
- Additionally, 1,000 customers have insufficient data and as a result will have to be manually reviewed leaving a total of 6,149 customers for manual review

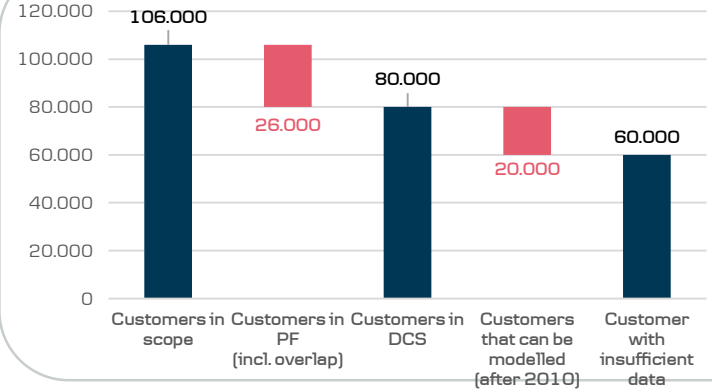


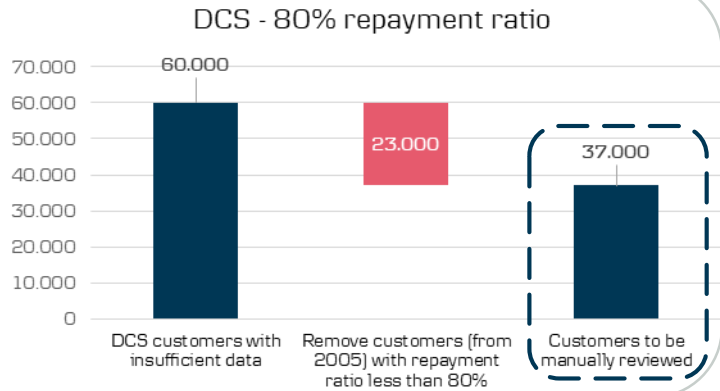


DCS

- 80,000 customers in DCS are in scope for redress
- 20,000 of these can be modelled by re-calculating the debt with data from after 2010
- 60,000 customers can not be modelled due to lack of data
- By reviewing the corrections made since June 2019, data shows that corrections remain below 20% of principal. Corrections are (for 98.5%) maximum 20% of principal
- Assuming that corrections can be offset in remaining debt, will allow for discarding customers with repayment ratios below 80% (28,500)
- However, all customers entering DCS in 2004 (8,500) have to be manually reviewed due to their potential exposure to root cause 3 and 4
- In total, 37,000 customers in DCS have to be manually reviewed

80% repayment ratio → 43,150 customers for manual handling





* These are all customers that are potentially eligible, the actual number after further investigation is expected to change

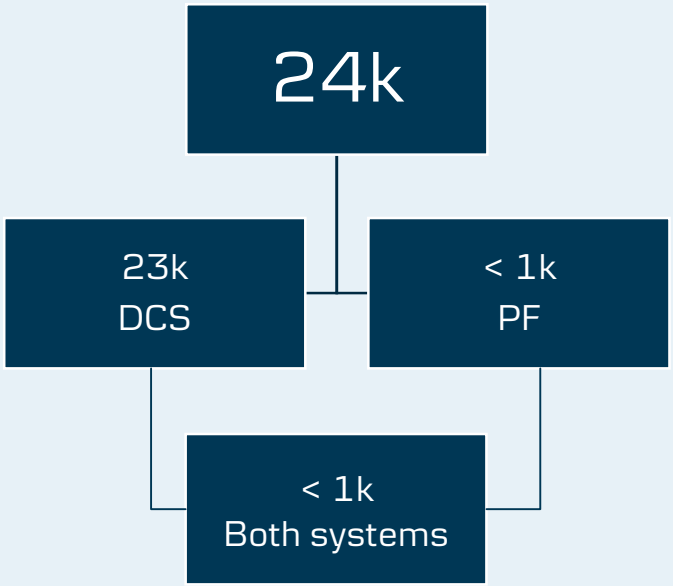
24k customers that have entered and left the two systems after 2004 and been there for less than 3 years. Hence they can not have been impacted by the four root causes

Characteristics of the cohort

- All of these customers have been in the systems less than 3 years*
- For **DCS**, customers who has been active less than 2.5 years in DCS are removed by this filter
- For **PF**, customers entered in the system less than 3 years ago are removed as no debt is at risk of being time-barred (arrears date will always be correct for PF)

- That principal, fees and accumulated interest might have collapsed does not lead to incorrect interest calculation as the interest is consistent across debt types
- Hence root causes 1 and 2 have not impacted the 24k customers:
  - **RC1 – Collapsing of fees, interest and principal**
    As interest rates are consistent across all debt types, collapsing of debt has no impact
  - **RC2 – Incorrect arrears date**
    Not an issue for PF customers as independent review ensures correct input date. Not an issue for DCS, as long as soft collection process is less than 180 days
  - **RC3 - Guarantors and co-debtors**
    Only applicable for DCS, but none are among the 24k as they are all after 2004. The root cause only occurred during the migration into DCS
  - **RC4 - Co-debtors charged full principal**
    Only applicable for DCS, but none are among the 24k as they are all after 2004. The root cause only occurred during the migration into DCS

Breakdown of the cohort across DCS and PF



Areas of risk are non-systemic operational errors as e.g.:

Court fees being incorrectly collapsed when entering DCS. Interest should not be calculated on these fees. The issue is currently under investigation

Duration of soft collection exceeds 180 days (standard duration is 90 days)

* For DCS a conservative cut-off equal to 2.5 years is applied as a 'rolling window' throughout the period. For PF an exact cut-off equal to 3 years is applied going back to 2017, as the arrears date is correctly registered due to independent review in a foreclosure process

How interest compensation will be implemented in redress calculations

Legal basis for interest compensation

- Plesner has provided their legal assessment[1] of Danske Bank's set-off right and when the bank is obliged to compensate customers and add interest to the customer's compensation
- Plesner concludes that Danske Bank is legally obliged to compensate according to the Interest Act section 5, for customers with no current debt and when set-off in existing debt will not fulfil the costumer's restitution claim
- Such customers should receive compensation with attributed interest corresponding to the relevant process rate (in Danish 'morarenten') at the time of each overpayment made by the customer
- Customers that have been subject to over-collection, but have sufficient existing debt to allow for set-off should not receive interest compensation

Implementation of interest compensation principles

How to apply the interest rates on over-collection?

- From a legal perspective, Danske Bank is required to;
  - **Option 1a** - Add interest to over-collections incrementally as they occur (i.e. add interest to the individual over-collection from the time of the respective collection)
- Implementing such logic is impractical and instead EY suggest to;
  - **Option 2a** - Add interest on the entire over-collection amount starting from the time that the first over-collection event took place
- **Option 2a is chosen** as it will (always) result in a benefit for the customer as opposed to option 1a. Although, this might lead to unintended taxation as the interest compensation will fall beyond Danske Bank's legal obligation

Which time period to apply?

- From a legal perspective, Danske Bank is required to;
  - **Option 1b** – Add interest from the point in time of each individual payment by the customer that was paid on an incorrect basis (i.e. time-barred or in excess of actual correct debt)
- Implementing such logic is impractical and instead EY suggest to;
  - **Option 2b** - Add interest from the earliest point in time that the customer theoretically risk overpayment – i.e. the first payment by the customer after 2.5 years in debt collection
- **Option 2b is chosen** as it will (always) result in a benefit for the customer as opposed to option 1b. Although, this might lead to unintended taxation as the interest compensation will fall beyond Danske Bank's legal obligation

Tax effect of such interest compensation should be clarified with Danish Tax Authorities (pending)

Further complexities such as interest compensation to customers with time-barred claims (i.e. older than 10 years), will have to addressed by programme as fulfilment progress

[1] Memorandum prepared by Plesner the 8th of April 2020 – "SET-OFF RIGHT IN RELATION TO DEBT COLLECTION ON A UNJUSTIFIED BASIS"

Sample customer in pilot batch "case H"

H have been subject to over-collection as he has repaid;

(i) fees that were limited (DKK 300)

(ii) interest on limited fees (DKK 37.6)

H obtains an uncollateralized retail loan (Danske Lån) at Danske Bank

2008 → Feb 2011 → Dunning #1 is sent without a fee → Dunning #2 **100 DKK** fee → Dunning #3 **100 DKK** fee → Dunning #4 with DC warning **100 DKK** fee

He starts paying his monthly installments

H stops repaying his monthly installments

Soft collection starts
Dunning proces in FEBOS

Hard collection starts
Registration in DCS

FEBOS ⇩ DCS

Dunning fees are incorrectly collapsed with principal when migrated to DCS

⇩

Apr 2011 ← Apr 2015 ← 2016

H's total debt of **35,782 DKK** is registered in DCS – see entry balance

Dunning fees (300 DKK) are incorrectly registered as principal debt

GRDM contacts H and convinces him to sign settlement agreement

However, fees (300 DKK) have now limited incl. interest on them (37,6 DKK)

H has repaid his debt in full making him eligible for redress

Derivatively, incorrect reporting is made to DTA[1] in 2016

Case is closed in DCS

Actual registration

DCS	
Data field	DKK
#2	929
#3	34,853
Total	35,782

Day — Jun 18 2020 — Zero → *H will then have 2 years to substantiate any indirect losses....*

Fulfillment complete

H will receive a compensation equal to 476,2 DKK [2]

#2 Unpaid 'ordinary' interest + fees and penalty interest

Limitation = 3 years

#3 Principal

Limitation = 10 years

[1] Danish Tax Authorities

[2] 476,2 DKK = 337,6 DKK (over-collection) +138,6 DKK (interest compensation – See next page)

Project Athens - **Question 4**

Interest compensation - 'case H'

- H's debt was registered in DCS in 2011 and his first repayment was made on April 23 2015
- Thus, H's claim against Danske Bank fell after March 2013
- For simplicity, it is assumed that the entire over-collection amount occurred on this date to the benefit of the customer
- Interest compensation is calculated as simple interest (i.e. not compound) from date of over-collection until fulfilment date
- For H, the time period is April 23 2015 to June 18 2020 (Day Zero)

Calculation of H's interest compensation

Total over-collection amount x Interest compensation rate (per day) x Number of days
= Interest compensation amount

DKK 337.6 x (8.20% / 365 days) x 68 days + 337.6 x (8.05% / 365 days) x 1,815 days
= DKK 138,6

March 1 2013

7% surcharge	8% surcharge
Before	After

+

Lending rate

=

Interest compensation rate

8.20% (April 23 2015 – June 30 2015)

8.05% (July 1 2015 – June 18 2020)

Project Athens – **Question 5**

Based on best-practice redress methodology, EY suggests to plan towards a Day Zero, with compensation commencing immediately after the press release

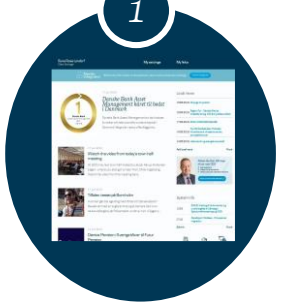
		BEFORE DAY 0	DAY 0	PILOT & OUTPAYMENT PERIOD	AFTER COMPLETION
Comms	Press/public affairs	Dialogue with the Danish FSA	TBD: Potential outreach to selected stakeholders		
	Customer comm.		Customer letter 1: Information about the issue identified	Customer letter 2: Information about how much in compensation they will receive. If the tax matter is clarified, this will be included	
	Advisors	Advisor tools development; Populate database for individual customer look-up in WOID; Advisor training			
Calc's	Taxation	Settle taxation on each re-dress strategy			Ensure proper documentation
	Scenarios	Build scenarios for Straight to Pay (STP) outpayment flow; Build scenarios for manual flow			Review learnings
	Calculation Approach & methodology	Benchmark (BM) and calculation approach; **StC sign-off for BM and calc. approach**			
Outpayment	Prepare payment file	Design QA and controls; Code systems with rules for STP annual flow; Train staff on scenarios for manual flow			Close program
	Pilot		Run test pilot with letter, advisor lookup and outpayment		
	Execution outpayment	Scope payment phases (current expectation)		Execute payment file phase 1; Execute payment file phase 2; Execute payment file phase 3; Execute payment file phase 4	

Calculation, Communication, Compensation

EY recommends to use best-practice communication approach and platform from previous remediation projects

Communications Day Zero

1



Headlines

On at 9.00am

2

Press release

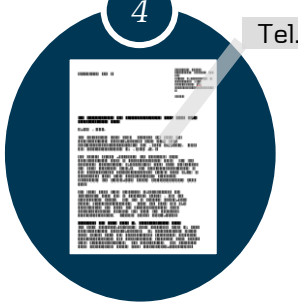
Published at 9.00am

3

Website

www.danskebank.dk/Athens

4



Tel.: XX XX XX XX

Letter

Sent to affected customers with hotline campaign number

Decision for SteerCo to agree on

- EY suggests to use the familiarities of the communication approach, tools, platforms and training approach from previous remediation projects

Material for advisers

1

WOID

The "Regulations about investments" item, Q&A, background info, copies of letters to customers, calculation look-up

2

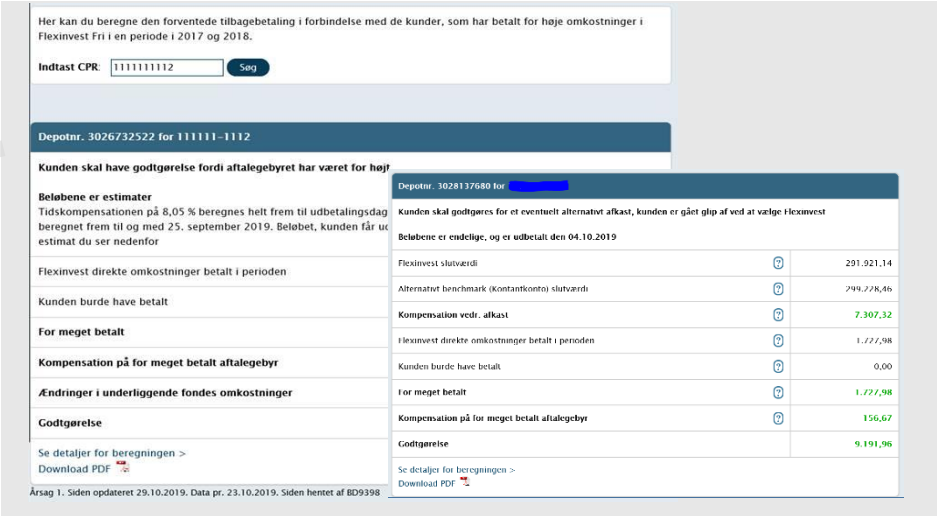
Messages for customers

Available Monday morning - Overview of affected customers, possibility of proactive contact

3

"Opslagsværk"

Find out whether a specific customer is affected and how. Find it on WOID

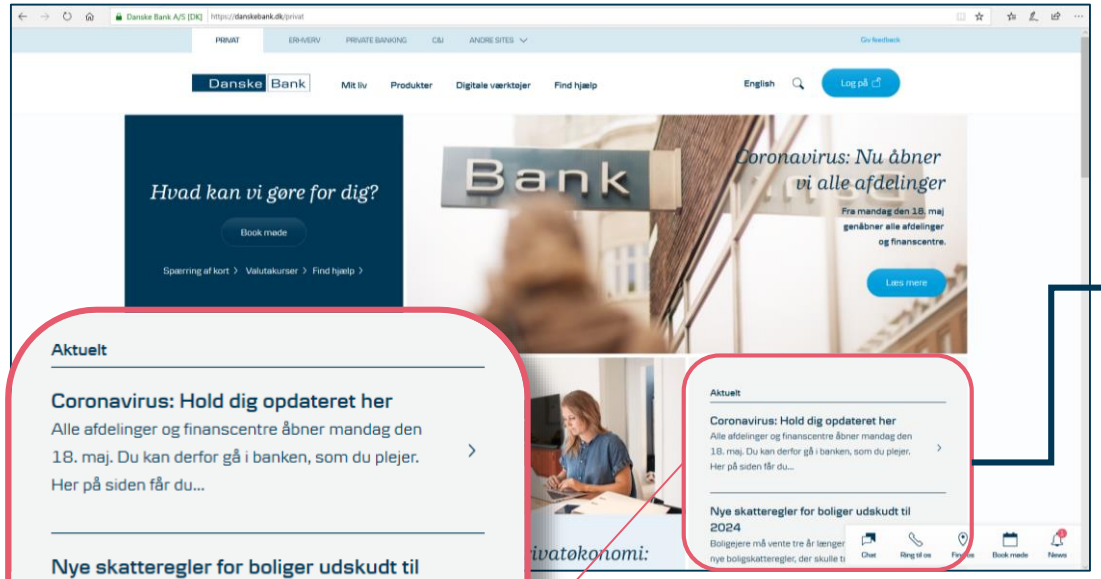


Project Athens – **Question 5**

Announcement on the front page of Danske Bank's site links to a site with details on the issue; incl. Q&A and a form to submit claim based on indirect losses

1 Danske Bank front page, 'Aktuelt'

www.danskebank.dk/privat/kunde



Information to public will be announced under 'Aktuelt' on the front page of Danske Bank's homepage

New updates under 'Aktuelt' when critical outpayment batches are due, e.g. when outpayments amounts are large

2 Athens site with details and form

www.danskebank.dk/tilbagebetaling

Detailed information on the issue are outlined with further details in Q&A setup

Link is also provided in the letter sent to customers in scope for outpayment

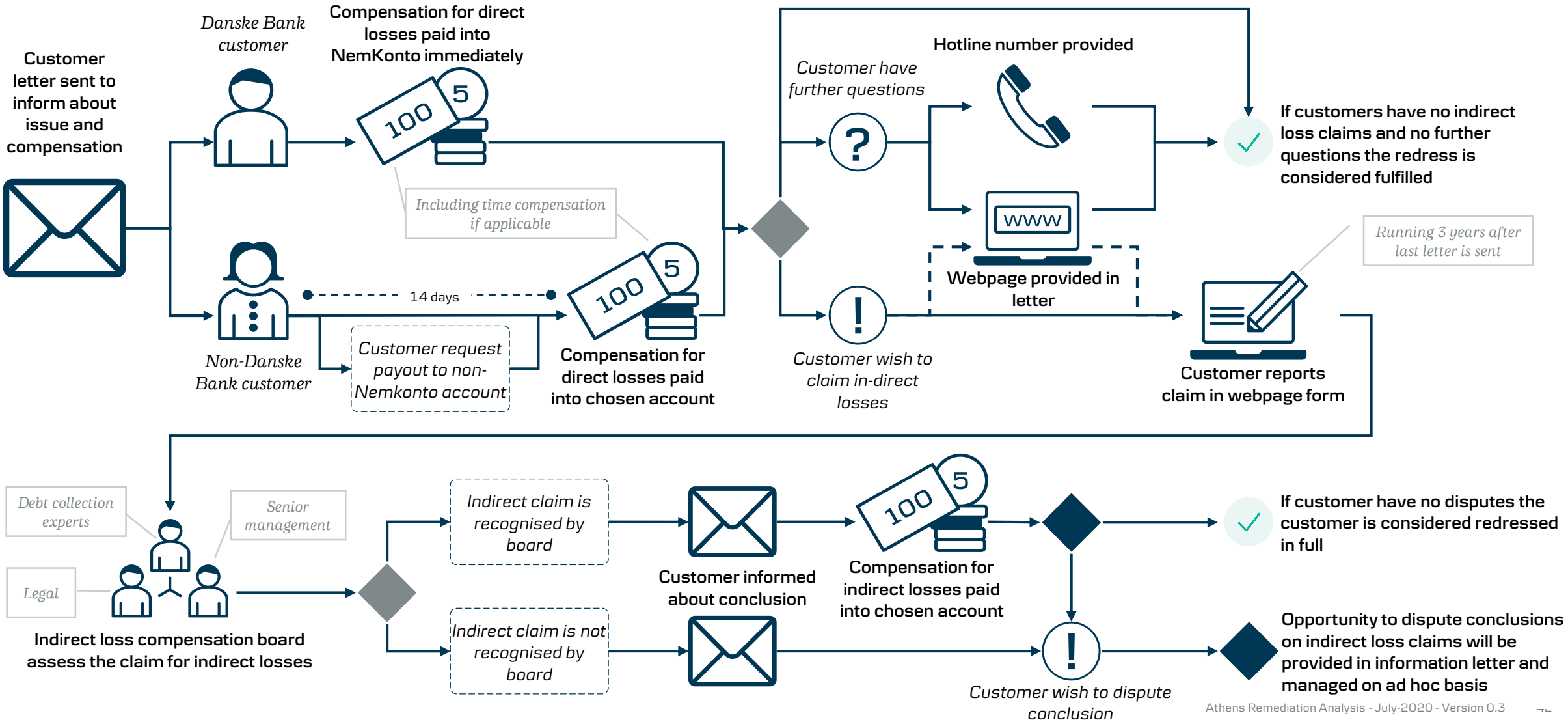
3 Indirect losses form

[indirect loss form]

Application form will be available to all site visitors, but a review process is designed to filter away applicants without legitimate claims

The redress process is designed to ensure customers are compensated as soon as possible

In addition to swift payout the process is designed to ensure proper consideration of customers indirect losses



APPENDIX 2.5 - ADDITIONAL ISSUES

The Bank is currently investigating a number of issues that may have had an impact for our customers, and which have been discovered in the course of our internal investigation of the debt collection matter.

In many of these issues the investigations are in the early stages however we think it is important to provide you with a summary of these issues. The potential impact of these issues may vary in significance both for customers and the bank. The list is non-exhaustive as additional issues may be identified in the ongoing investigation.

Closed debt collection court cases
Summary: Data flaws in DCS and PF may have impacted a number of closed court cases involving our customers. This may have meant that the outcome has negatively impacted those customers and in some cases this could also affect other third parties involved in the case.

Dunning fees
Summary: When a customer receives a dunning notice a fee is charged and interest is added to the dunning fee and charged to the customer. A working group has been established within the Bank in order to identify and remediate any losses suffered from unjustified accrued interest on dunning fees.

Offset of customers' debt between group entities
Summary: risk of potential unjustified off-set between Group entities. The practise has been stopped pending further analysis.

Customer credit rating data from DCS and PF
Summary: The DCS and PF systems automatically assign a customer a D4 rating (the lowest credit rating possible), when the customer defaults on instalments and is transferred to the systems. A consequence of having had a defaulted loan is, that the customer is kept in the D4 category 5 years after the debt is fully paid off. Further investigations in relation to whether customers are held wrongfully in the D4 category due to the systemic data flaw is initiated.

Debt collection from vulnerable customers
Summary: Danske Bank's debt collection approach towards vulnerable customers is currently under investigation to identify if sufficient considerations for such the customer's situation are made in the debt collection process. A group-level policy is being developed to ensure the rightful and considerable treatment of vulnerable customers across Danske Bank.

Interest rates applied on defaulted loans
Summary: The issue arises in a situation where a customer defaults on their loans and an incorrect interest rate is applied during the default period. Indicatively the interests given to the customers were significantly lower than the standard interest rates applied to defaulted loans.

Tableau data based on DCS and PF
Summary: The poor data quality in the systems was reported to Tableau - the internal KPI-tracking database of Danske Bank. Reporting from Tableau was therefore inaccurate, providing a less accurate foundation for operational decision making. The issue has been solved by Customers Service Delivery. No risk assessments have been made using the previously erroneous data.

Fee allocation toward court cases
Summary: Preliminary investigations indicated erroneous legal fee allocation in specific examples prior to DCS. Legal practice is to allocate court awarded fees and not actual fees incurred. This matter has

been investigated further and a sample check is ongoing. The midway check points show currently no errors.

Legal fees included in principal amount
Summary: In very rare fraud cases, there might be a risk of legal fees being wrongfully included in the principal amount. However, this is only considered erroneous if the legal fees allocated are the actual incurred legal fees instead of the court awarded legal fees. This potential issue only exists if the above-mentioned sample check against our expectations will indicate an erroneous application of legal fees.

Home-issue - agency fees
Summary: We are looking into an area where there may have been a conflict of interest in respect of agency fees in situations involving voluntary deficit sales. The issue has been fully isolated to the department and the procedure has been fully mitigated in July 2019 in order to cover any potential issues. The designated team has identified the nature of the issue and concluded that state and condition of the properties was not taken into consideration in the initial analysis. The project has analysed the full portfolio of customers with voluntary deficit sales and conducted a thorough analysis on the approved fees incurred and approved on the sales portfolio.

Inaccurate tax reporting
Summary: Danske Bank may, as a consequence of root cause 1, have reported an incorrect interest amount to the tax authorities leading to an incorrect tax relief on interest for some customers. Customers that have suffered any loss related to incorrect tax reporting of the Bank will be compensated in full. Danske Bank has contacted the Tax authorities regarding the matter.

GDPR
Summary: The Bank may not have complied with certain elements of GDPR as a result of having flawed data in DCS and PF and is engaged with the Data Protection Authorities on this issue.

Debt Collection Agencies
Summary: The Bank outsources debt collection activities to a number of debt collection agencies which act on behalf of the Bank using the data provided by the Bank. The Bank is assessing and mitigating any potential additional issues created.

Asset Finance – Nordania Finans
Summary: We are looking into private agreements where several dunning fees have been charged more times than permitted. On the basis of the Bank's investigation of the calculation of interest on fees, Asset Finance has established that there may be a challenge in relation to the collection of default interest on reminder fees in the Bank's corporate agreements.

Project Data Quality

Conference call

24th October 2019

PLESNER

Introduction

Impact of system and control failures

Facts informed by Danske Bank

- Approx. 600,000 cases (both active and historic) in the DCS
- 80,000 – 130,000 active cases
- Incorrect calculation of loans, interests, costs and fees
- Around 55 % of the active cases are estimated to be flawed (based on actually recalculated by the collection team today)
- The financial size of customer claims cannot be determined
- Interviews with employees supports view as to severity of the facts

Risks

- Reputation
- TAX
- FSA
- GDPR
- Regulatory and Criminal Liability
- Financial risk
- Prudent Practice and Conduct

Remediation

- Maintaining the reputation of Danske Bank,
- Reimbursement of suffered losses, and
- Develop a compliant debt collection framework

High impact flaws

Examples of high impact flaws (pre and post 2004)

- Improper integration of existing loans into DCS in 2004 resulting in interest and fees being merged and added to a single field/entry in the DCS system, which uses the statute of limitation for the principle amount
- The time limitation for principal and interest is generally counted from the time the debt is entered into DCS rather than from the time the debt was established
- Statute-barred interest, costs and fee payments have incorrectly been included in settlement agreements entered with customers, and also in successful claims made against customers in courts, estates etc.

The key impact of the system flaws

- Customers in risk of overpaying
- Customers have overpaid
- Customers have paid debt that was statute-barred
- Danske Bank has collected debt that was not owed
- Danske Bank has submitted inaccurate tax reports to the Tax Agency
- Inability to accept payments from debtors who wants to make total repayments on their outstanding debt

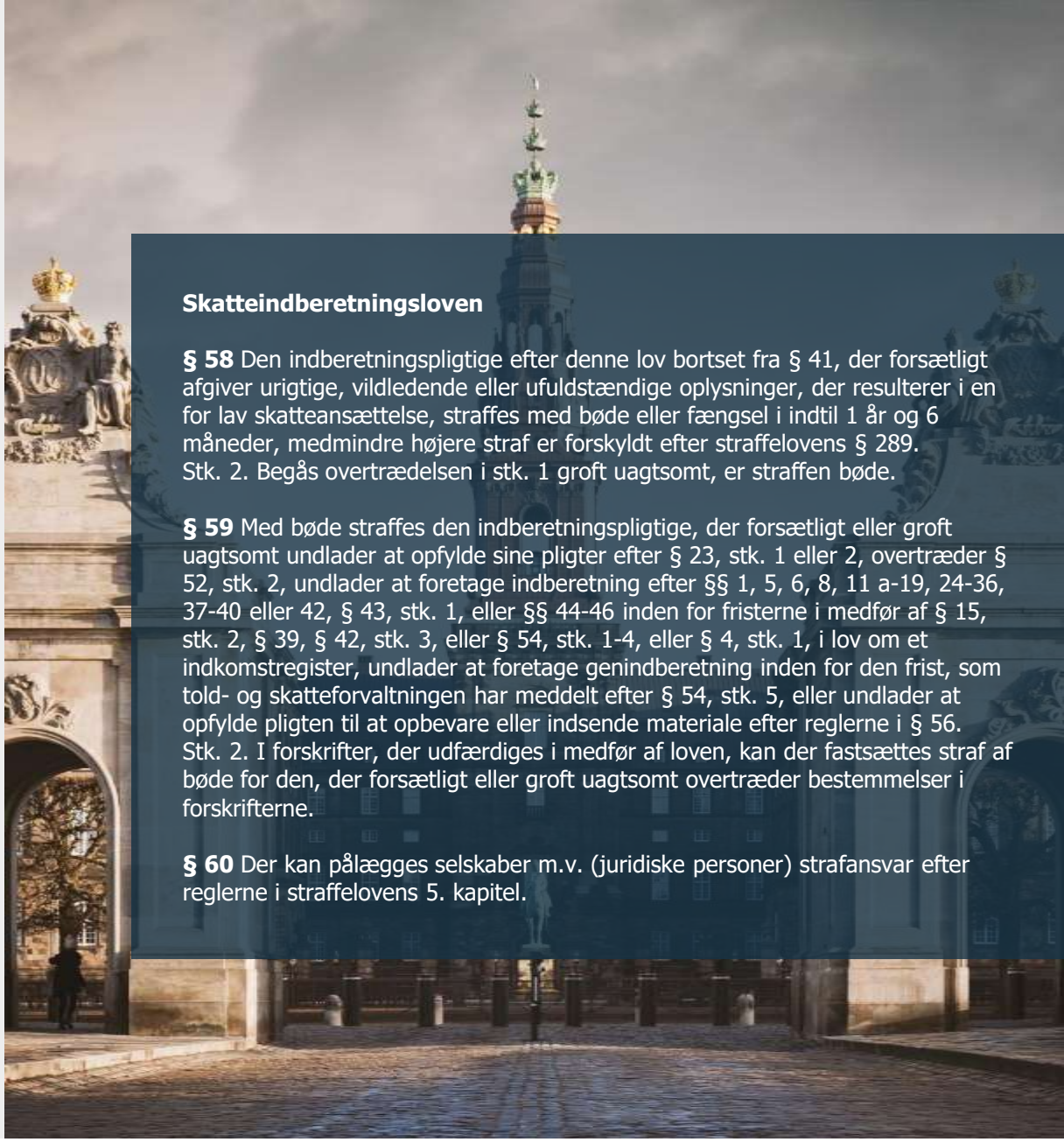
➢ **It is not possible to "auto-correct" the incorrect debt calculations**

➢ **An update to the DFSA should be provided**

Tax

Tax reporting obligations

- By law banks are required to report the interest of the customers on a quarterly and annual basis to the Danish Tax Authorities. These reports will affect the customers' ongoing tax returns.
  - The reporting deadline for Q3 2019 is on October 31, 2019.
- Danske Bank will not be able to submit an accurate report for all customers due to the systems flaws, and subsequent improper calculation of interest etc.
- It is a criminal offense to knowingly make inaccurate, misleading or incomplete reports.
- Historic tax assessments (10 years back) for the customers reporting might have to be re-opened and re-calculated due to inaccurate reporting.
- Pragmatic solution;
  - Engage with the Danish Tax Authorities og the Danish FSA to seek a preliminary plan of actions.



Skatteindberetningsloven

§ 58 Den indberetningspligtige efter denne lov bortset fra § 41, der forsætligt afgiver urigtige, vildledende eller ufuldstændige oplysninger, der resulterer i en for lav skatteansættelse, straffes med bøde eller fængsel i indtil 1 år og 6 måneder, medmindre højere straf er forskyldt efter straffelovens § 289.
Stk. 2. Begås overtrædelsen i stk. 1 groft uagtsomt, er straffen bøde.

§ 59 Med bøde straffes den indberetningspligtige, der forsætligt eller groft uagtsomt undlader at opfylde sine pligter efter § 23, stk. 1 eller 2, overtræder § 52, stk. 2, undlader at foretage indberetning efter §§ 1, 5, 6, 8, 11 a-19, 24-36, 37-40 eller 42, § 43, stk. 1, eller §§ 44-46 inden for fristerne i medfør af § 15, stk. 2, § 39, § 42, stk. 3, eller § 54, stk. 1-4, eller § 4, stk. 1, i lov om et indkomstregister, undlader at foretage genindberetning inden for den frist, som told- og skatteforvaltningen har meddelt efter § 54, stk. 5, eller undlader at opfylde pligten til at opbevare eller indsende materiale efter reglerne i § 56.
Stk. 2. I forskrifter, der udfærdiges i medfør af loven, kan der fastsættes straf af bøde for den, der forsætligt eller groft uagtsomt overtræder bestemmelser i forskrifterne.

§ 60 Der kan pålægges selskaber m.v. (juridiske personer) strafansvar efter reglerne i straffelovens 5. kapitel.

Regulatory and criminal investigations (prior "page 12")

The key tasks for Plesner in connection with the project is;

- To describe the main flaws that have been identified in the system and associated processes,
- To analyse and describe the main regulatory legal risks resulting from the identified flaws, and
- To assist Danske Bank in identifying possible ways of solving the issues resulting from the system flaws

At present we have not made final assessments of whether or not Danske Bank is likely to be found in breach of the following (and some of the points are outside our scope of work), however, at this stage it may be too premature to rule any of them out:

- Market abuse
- Governance failure
- System and control failures
- Fit and proper / accountability of senior management
- Failure to manage conflicts of interest between Danske Bank and the customers
- Long term failure to address known regulatory non-compliance in the collection systems
- Potential Criminal charges (economic crime/fraud)

Governance failures

- The management body of a bank defines, oversees and is accountable for the implementation of the governance arrangements to ensure effective and prudent management of the bank.
- Danske Bank is expected to take reasonable steps to ensure continuity and regularity in the performance of their services, and employ appropriate and proportionate systems, resources and procedures to achieve this.
  - To our knowledge; Senior management at Danske Bank has been made aware of various system flaws pervasive in the debt collection department.
  - Furthermore, at implementation of the DCS the system was known to inhibit system flaws.
- To our knowledge neither compliance or internal audit have been made aware of, nor have they themselves identified the system flaws
- Interviews with employees supports the above. Furthermore, it is our understanding that senior management has been made aware of the ongoing faulty collection of debt.

Fit and proper

- Senior management must at all times have sufficient knowledge, professional competence and experience to perform their job concerned.
- Failure to address known system flaws might represent a long-term and repeat failure to address known regulatory non-compliance in the collection systems, which in turn might demonstrate a lack of adequate and timely remediation.
- The DFSA will likely initiate an investigation as to who knew what and when with particular focus on senior management.

System and controls

- Danske Bank is required to maintain robust systems and controls, as well as sound administrative and accounting procedures.
- System flaws (both pre- and post implementation of DCS in 2004) has resulted in inaccurate calculation of loans, interests, costs and fees.
  - Interests, costs and fees incorrectly forms part of the principal outstanding amount for the purposes of calculating new interests.
  - Statute-barred interest, costs and fees – and potential principal amounts - have incorrectly been included in settlement agreements, court decisions, notifications in various estates etc.
- There is a risk that Danske Bank may be found to have failed to properly adhere to organisational requirements under the Danish Financial Business Act.

Potential Criminal Charges

Specific obligations by law is imposed on the management and non-compliance or violation of such might lead to civil or criminal liability

- At present it cannot be ruled out that members of the management/and relevant decision-makers (historic and present) may become subject to criminal liability (fines and potentially imprisonment) due to having accepted continuing collecting of debt that were known to possibly be incorrect
- Danske Bank has made severe violations of proper debt collection management
- Danske Bank has reported incorrect data to the Danish Tax Agency

A more detailed description and assessment will require a greater insight in the individual cases, the underlying documentation, correspondence etc.

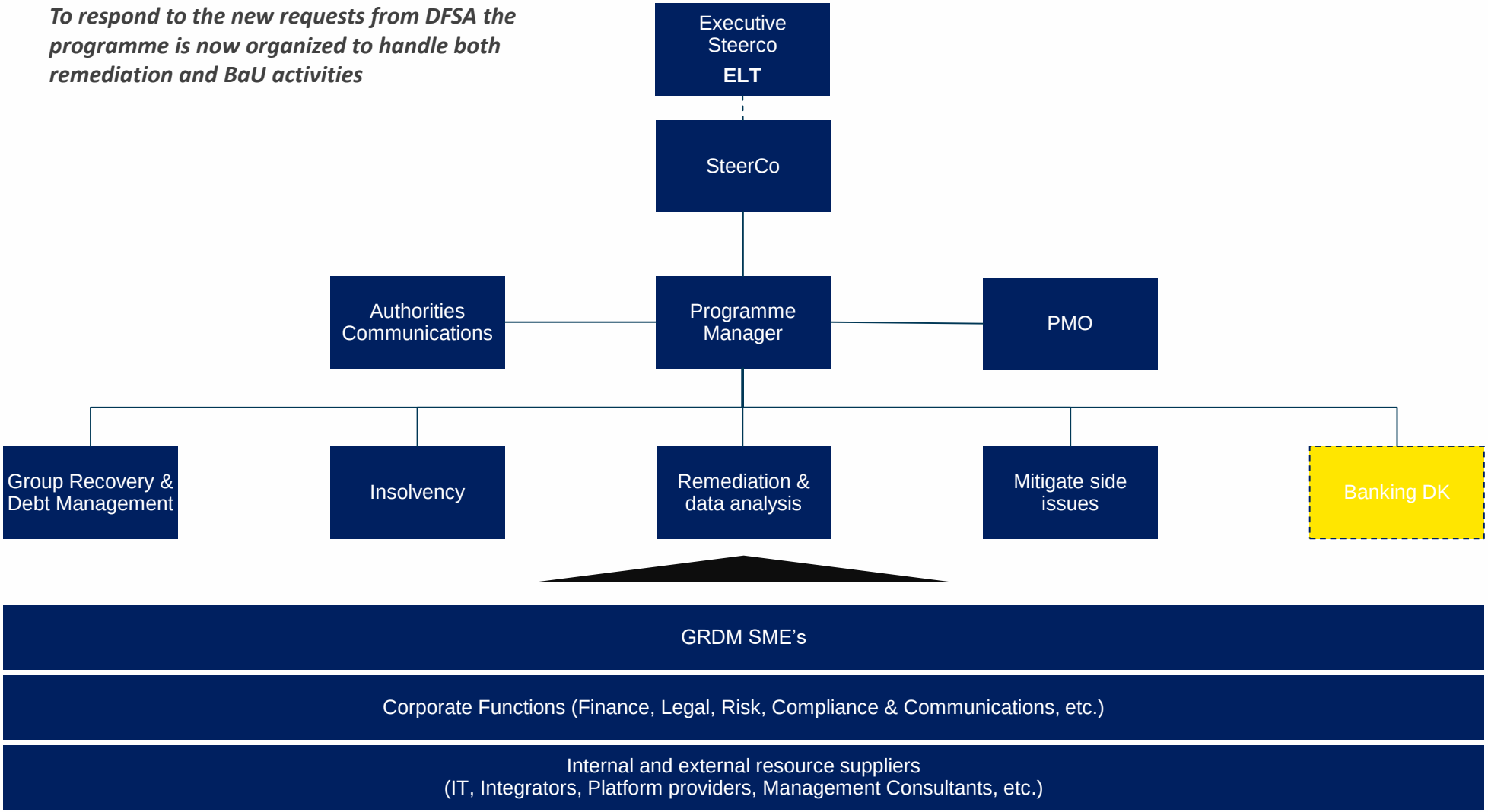
Key non-financial risks (analysis not completed)

Key non-financial risks	Comments
Reputational damage	• Failure of a bank to perform 'basic' services such as calculating principal amounts, interest and fees on loans correctly • Ongoing awareness of system issues poses a risk that this will be viewed as "yet another" example of bad culture in Danske Bank • Sanctions from the authorities
Employees leaving	• Stress and pressure • Backlog of 1,500 customers who wants to make repayments, but are awaiting manual re-calculation of their debt • Public disclosure risks causing huge increase in customer requests • Increased work-load and possible bad press will increase the risk of resignation by employees in the debt collection team, and in particular in the correction team
Accountability of management and employees	• The authorities will likely initiate an investigation into accountability, with initial focus on the management and possibly also a subsequent investigation into individual employees
Pressure on organisation to fix issue asap	• The DFSA will likely demand a timetable for resolving the issues including ongoing updates, primarily in respect of customers that have paid too much, but also in respect of a future state solution

Key financial risks (analysis not completed)

Key financial risks	Comments
Repayments to the customers	• The obligation to repay customers will result in a net loss
Depreciation of debt that is actually time barred	• Debt registered in DCS as 'owed', but which is actually statute-barred will need to be depreciated
Tax related liabilities	• There is a risk that re-opening customers' annual tax assessments will result in "late payments" of the relevant taxes. Such a cost will likely be borne by Danske Bank
Sanctions from Tax Agency/SØIK	• Risk of being fined for having reported incorrect data to the Tax Agency (Skattestyrelsen)
Sanctions from DFSA/SØIK	• Breach of conduct of business rules (god skik) for collecting debt that was statute-barred, or otherwise not owed by the customer • Governance failures for not resolving the issues despite escalation efforts made by employees and the continuation of debt collection whilst knowing that the calculations might not be correct • Governance failures for not having sufficient systems in place
Damages for losses suffered by customers and other third parties	• Customers and other third parties may claim against Danske Bank for damages for the consequences of incorrect debt collection
Fine for GDPR-non compliance	• The DCS contains incorrect data on customers' debt and other personal data in breach of GDPR.
Work to fix issues may be costly	• Due to the number of customers impacted by the issue, the costs in fixing the issue will likely be sizeable. Work on re-calculating debt correctly will take a lot of effort and resource. The need to resolve the impact on customers' tax returns may be costly. Finding a new solution for debt collection will naturally also be costly (we understand this aspect is already ongoing)

Q&A

Governance structure

To respond to the new requests from DFSA the programme is now organized to handle both remediation and BaU activities