

HERBERT SMITH FREEHILLS RESPONDS TO HIGH COURT DISMISSAL OF CLAIM BROUGHT IN LATEST WAVE OF TAX DEFERRAL SCHEME LITIGATION

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Firm news

Responding to news that the High Court has dismissed a claim brought against banks who lent sums for investment in a tax deferral scheme, Rupert Lewis, a partner at Herbert Smith Freehills, says that "this decision provides reassurance to banks who were targeted simply because the promoters of these schemes have collapsed or do not have deep enough pockets."

His comments follow the recent judgment in *Barness v Ingenious Media* which highlighted a number of aspects of the case which are likely to be relevant in similar claims. In particular, the court rejected arguments that the lending banks were responsible for making sure that investments (promoted by a third party) were suitable for the investors and also rejected the existence of so-called 'umbrella contracts' between the banks and the investors.

Lewis says: "The court accepted that it was well established that a bank which simply sells a product to its customer is not under a duty to advise as to the nature of the risks inherent in the transaction. This will be an important decision for banks facing similar litigation and, more generally, for financial services firms selling products on an execution-only basis."

Full details of the case can be seen in Herbert Smith Freehills' latest [banking litigation blog](#).

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