# Report on collapse of Royal Bank of Scotland to be published

**By Jean Shaoul**
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Last Thursday, Lord Adair Turner, chair of the Financial Services Authority (FSA), announced that he would publish a report on the events that led to the collapse of the Royal Bank of Scotland (RBS). The decision, after months of stonewalling, came after the release of US embassy cables by WikiLeaks, and published in the *Guardian*, which made Turner's position untenable.

In 2008, RBS posted a ?24 billion loss and, facing collapse, was rescued with a ?45 billion taxpayer bailout in Britain's largest ever corporate rescue. In April 2009 an investigation was launched, which found no evidence of wrongdoing at the bank. The decision to allow RBS and its directors to get off scot-free was met with widespread incredulity, but Turner refused to publish the investigation.

The events surrounding the report confirm that the financial institutions and their leading personnel are a law unto themselves and that the FSA is in bed with the swindlers and racketeers in the City of London.

The real role of the FSA is not to "regulate" the financial institutions but to protect them, cover for their criminal activities, and shield them from the taxpayers who have bailed them out. As such, it is party to the massive theft of working people's earnings. Far from cleaning out the Augean stables, the FSA is making sure that it is business as usual for the banks, the city's political leadership and the regulators.

Turner said that "a series of bad decisions"—not dishonesty, fraud, a breach of regulations or governance—was the cause of the problems at RBS. There had been "no lack of integrity" or "failure of governance on the part of the board".

According to the FSA, RBS's collapse was solely due to its decision to pay, along with its European partners Fortis and Santander, the astronomic sum of ?71 billion to buy the Dutch bank, ABN Amro, at the onset of the subprime mortgage collapse and the credit squeeze. There were no broader systemic problems involved.

With bad decision-making no crime, neither the bank nor its directors, including former chief executive Sir Fred Goodwin, whose decision it was to go ahead with the takeover, are to face prosecution or sanctions of any kind. Turner has closed the investigation into RBS's takeover of the Dutch bank, without making any assessment of the role of the hedge funds, the various banks, and the advisors in the deal, or who was responsible for RBS risk management.

Furthermore, with breathtaking indifference to any notion of public accountability, the FSA chief refused to publish the "investigation" by global financial consultants PwC that purported to find no evidence of wrongdoing to justify any prosecution. No one will be able to examine how the board had made its "bad decisions", or how PwC had reached its conclusion that no malfeasance had been involved.

Even more ludicrously, it later transpired that there was no report, just a series of memos and statements. How it was possible to arrive at the conclusion that no rules or statutes had been breached without a detailed report, Turner did not explain.

Turner claimed in an article he wrote for the *Financial Times* that publishing a report would not add much to the public's understanding of what went wrong or to the public debate after the investigations into the collapse of failed mortgage lender Northern Rock and his own investigation into the financial system. He dismissed calls to publish a report as "misguided" and said, "It would reveal the same deficiencies of regulatory philosophy already identified…. In the future, we would act differently."

The FSA chief said that the authority was required by statute to keep its investigation confidential and that publication would require the consent of RBS and all its directors. This was the first time that the public had heard of an investigation into potential wrongdoing required the assent of those being investigated.

Apparently, it is the FSA's normal practice not to publish a report of or even summarise the evidence leading to its decisions. He went onto argue that for the banks to be punished would require a stricter set of rules than for other corporations.

Turner was completely silent about the regulators, including the FSA's own role in sanctioning the takeover, despite the fact that it left RBS woefully undercapitalised at the onset of the financial crisis.

There is truly one law for the rich and another for the poor.

The picture that emerges is one of the FSA telling its investigators, PwC—itself a key player in the financial services industry—the conclusions that it wanted PwC to reach: that no one, including the FSA itself, had done anything wrong. Until the onset of the financial crisis in 2008, it carried out few civil enforcement actions and meted out low fines averaging just ?220,000 in 2007-08.

When RBS, along with Lloyds Bank and HBoS, faced bankruptcy in October 2008, Alistair Darling, the then Labour chancellor, organised a massive rescue. It came after secret talks over a weekend, with no strings attached, no discussion in parliament, much less any public consultation, and was announced to the stock markets early on the Monday morning.

Later Mervyn King, the Governor of the Bank of England, revealed that the BoE had provided ?36.6 billion in secret loans to RBS and the government had agreed to underwrite RBS's debts should it default on its loans. As well as providing the ultimate backstop for the banks, the government is currently providing ?512 billion of explicit public support and as the National Audit Office warned in its report last week, more may be needed.

But despite the massive public subventions to RBS and other high street banks, no proper examination of the banks' activities has been mounted in Britain.

The FSA's investigation was never more than a sop to the public and has now been revealed as a complete sham.

Turner had come under pressure from the government and the City itself who feared for its reputation as a financial centre if it was not seen to be "transparent".

George Osborne, the chancellor of the exchequer, expressed his disquiet. Vince Cable, the business secretary, demanded that the FSA publish its report. He reminded the FSA that in March 2009, when he was in opposition, he had given Turner evidence, provided by a whistleblower, of "abuse and waste of shareholders' money". He had also raised questions about whether the banks' non-executive directors were "fit and proper" to oversee Goodwin's activities.

Some of the loudest calls for the publication of the report came from shareholder groups in the US who lost money in the shares they purchased between March 2007 and January 2009 and are pursuing class action suits against RBS. They are seeking to take advantage of the fact that RBS is essentially government-owned to seek full disclosure.

It was the WikiLeaks release of US embassy cables that finally caused Turner's volte face. The cables show that no less a person than RBS's new chairman, Sir Philip Hampton, flatly contradicted the FSA's line. According to cables sent from the US embassy in London, Hampton told visiting Congressmen that the former directors were in breach of their fiduciary responsibilities.

Hampton said RBS had made "several enormous" mistakes. Top among them was its heavy exposure in the US subprime market and the bank's purchase of ABN Amro, which occurred at the height of the market and without RBS doing proper due diligence prior to the purchase. The board never questioned this purchase, which Hampton labelled a failure of their fiduciary responsibilities.

Once again, the WikiLeaks cables show that public figures say one thing in public and another in private. Even more crucially, Tukola noted that Turner, the FSA chair, had been concerned about directors' mistakes and regarded "too little oversight by boards of directors" as one of the causes of the financial crisis". According to the cables, Turner had said, "Negligent boards of directors bore much of the responsibility for the crisis," by "failing to provide oversight or check risky activity", something that Turner publicly denied in the context of RBS.

It was only after the publication of the cables that Turner said he would commission a special report for public release. The FSA will publish a summary, not a full, detailed report of its investigation, but only next March and after RBS's current and former executive and non-executive directors have approved it.

This, however, was enough to provide the necessary political cover for the business secretary, who said that the "new report will provide a clear description of any key failings whether by the FSA or decisions by the RBS board and executives". He feared that without it, there were would further calls for action to be taken against the banks, the regulators, and the ?7 billion bonuses expected to be announced for this year.