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MARKETS

Judge in Spain Rules Against Mortgage-Floor Clauses

Spanish lenders must reimburse clients whose mortgages had unclear interest-rate clauses

By **JEANNETTE NEUMANN**
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MADRID—A Madrid judge has ruled that major Spanish lenders must reimburse clients who had signed confusing mortgage contracts that unfairly prevented them from benefiting from a steady drop in interest rates.

Most of the banks named in the lawsuit already have removed the mortgage floors, which set a limit on how low monthly home-loan payments can fall regardless of what happens to interest rates.

The pre-emptive removal—in anticipation of an unfavorable court ruling—had triggered a decline in profits in recent quarters for Spanish banks.

Banco Popular Español SA, for instance, reported a net loss in the fourth quarter of 2015 after it set aside a provision of €350 million (about $398 million) to cover potential legal claims. Lenders Bankia SA and Caixabank SA reported declines in a key profit metric when they stopped applying the interest-rate floors last year and had also provisioned for possible paybacks to clients.

Caixabank had provisioned €515 million in 2015 in anticipation of potential legal claims, a spokesman said Thursday. The provisions made by banks extend back to May 2013, the date when a top Spanish court first ruled that some mortgage floors needed to be removed. That decision only applied to several banks. Thursday's ruling by the Madrid judge applies to most other Spanish banks. The reimbursements are retroactive to May 2013.

All investors' eyes are now on Banco de Sabadell SA, the only major Spanish bank that has mortgage floors and hasn't removed them. Sabadell executives have said the clauses in their contracts that spell out the impact of interest-rate floors are clear-cut.

Sabadell "is going to study this ruling and will make a decision once it has been analyzed," a bank spokeswoman said. The bank doesn't rule out appealing the ruling to a higher court, she added. Sabadell shares closed down around 4% on Thursday after the ruling was announced. Any potential payback to clients, the spokeswoman added, is already provisioned for and therefore should have a minimal financial impact on the bank.

The bulk of Spanish mortgages are variable-rate loans tied to the euro interbank offered rate, known as Euribor, which has plunged below zero as central banks enact their easy-money policies. That drop in Euribor should have benefited mortgage borrowers' monthly payments. But if they had a mortgage floor, their payments couldn't fall below a certain amount—a bust for their monthly bills but a boon for Spanish banks.

The Madrid judge "thinks that the mortgage-floor clauses that have now been declared null and void lack transparency and are therefore abusive," according to a statement from the court on Thursday. The mortgage floors went against clients' expectations, the statement added: When "a client thought that he was taking out a variable-rate loan, he unexpectedly found a clause that prevented him from benefiting from a decline in the reference interest rate."

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