



BUSINESS NEWS

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Australia's Federal Court issues landmark judgment against S&P, ABN Amro

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SYDNEY (Reuters) - Australia's Federal court issued a landmark judgment on Monday that Standard & Poor's misled investors by giving its highest rating to derivatives that lost almost all their value in the run-up to the 2008 global economic crisis.

The Australian case marked the first time a ratings agency had faced trial over the complex financial products widely cited as one of the factors that triggered the crisis and could set a precedent for future litigation around the world.

In a strongly worded judgment, Justice Jayne Jagot said S&P and ABN Amro had deceived 12 local councils that bought the triple-A rated CPDO, or constant proportion debt obligation, notes created by the bank.

The councils were assured the so-called "Rembrandt" notes bought from Australian Local Government Financial Services (LGFS) in late 2006 had a less than 1 percent chance of defaulting. Within six months, they had done just that and the councils lost A\$16 million (\$16.6 million), or 90 percent of the funds they had invested.

"S&P's rating of AAA of the Rembrandt 2006-2 and 2006-3 CPDO notes was misleading and deceptive and involved the publication of information or statements false in material particulars and otherwise involved negligent misrepresentations to the class of potential investors in Australia," Jagot said.

"ABN Amro was knowingly concerned in S&P's contraventions of the various statutory provisions proscribing such a misleading and deceptive conduct," she added.

LGFS was also negligent and guilty of misleading and deceptive conduct in failing to fully and accurately disclose all of the material risk to the councils, Jagot ruled.

Jagot awarded the 12 councils in New South Wales state a total of about A\$30 million for losses and damages.

S&P said it plans to appeal the ruling.

“We are disappointed with the court’s decision, we reject any suggestion our opinions were inappropriate,” the ratings agency said in an emailed statement.

Amsterdam-based ABN Amro, which was one of a number of Dutch banks that were nationalised as part of a government bailout in the 2008 crisis, was not immediately available for comment.

IMF Australia [IMF.AX](#), a publicly listed company that funds large class-action lawsuits and financed the Australian claim, said it is planning legal action in Amsterdam related to some 2 billion euros in CPDOs sold by ABN Amro and rated by S&P.

“This is a major blow to the ratings agencies, which for years have had the benefit of profiting from the assignment of these ratings without ever being accountable to investors for those opinions,” said lawyer Amanda Banton of Piper Alderman, who represented the local councils.

“Today’s judgment will ultimately have the effect of ensuring ratings agencies are accountable and promoting transparency in the ratings process,” Banton added.

Monday’s ruling follows a judgment in September against Lehman Brothers Australia, which found that firm breached its legal duties when it sold collateralised debt obligations, or CDOs, to a group of charities, councils and churches that collectively lost A\$250 million (\$259 million). (\$1 = 0.9645 Australian dollars)

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