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MONEY BOX

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LEWIS: Hello. In today's programme, West Bromwich Building Society is saved. But at what price for its customers? Bob Howard's found a novel answer when you're pursued for a debt you don't owe.

HOWARD: One listener has received thousands of pounds in damages after he threatened to take a debt collection company to court.

THOMPSON: Many of these agencies do not care about people. They're just pursuing debt as a machine.

LEWIS: Nearly 10,000 savers in Northern Ireland with the Presbyterian Mutual are still waiting for their money 7 months after the society called in the administrators. And is now the time to fix your mortgage, or is it already too late?

But we start with the survival of West Bromwich Building Society. After weeks of speculation about bankruptcy, a break up or a takeover by other societies, the eighth biggest society has pulled itself back from the brink of disaster. Last year it turned a profit of £48 million into a loss of £49 million. Despite those figures, it's persuaded institutional investors who have £182 million in the society to become shareholders. If it makes money in future, they'll get a share of that profit. But will giving profits to shareholders affect the deals offered to its hundreds of thousands of customers? Live now to talk to Robert Sharpe who is Chief

Executive of West Bromwich. Robert Sharpe, how close to failure did the society come?

SHARPE: Good morning, Paul. Well the timetable was pretty tight. We were required to get the sign off of our annual accounts and to publish the results of those accounts by Monday 15^{th}, which is next Monday, and therefore we wanted to do this transaction before the accounts were signed.

LEWIS: So it was a close run thing. And by taking on shareholders, don't you stop being a mutual because in future you'll have to consider shareholders first and your members second?

SHARPE: No, not at all. The institutional investors, irrespective of the amount of the tier one capital that they now hold, only gets one vote, in the same way as Mr Jones with £100 in his account also gets one vote.

LEWIS: Yes, but you have a legally binding commitment to give them a share - a quarter I think - of your profits, so that's less for your members. And you'll have to be thinking you want to encourage those investors because they could take their money out.

SHARPE: Well I'd say two things about that. Firstly, clearly, as the deal has been structured, it's the directors on the board who have the discretion to pay the dividend (or not) in the same way as any other institution as shareholders. And secondly, and I think really importantly, is that the society is saving some £13 million in interest payments on subordinated debt that has been transferred into this new instrument. Now to pay 25% of the post-tax profits, the society would have to be earning profits at a level that it's never earned before in its history before the members were disadvantaged.

LEWIS: Will this deal be enough? Is it still possible that West Bromwich will have to be rescued by another society or broken up?

SHARPE: Well I think that certainly there are still challenges for the society, but what this deal gives us is a very clear safe and secure future for our members for the foreseeable future because we've now got one of the strongest core tier one capital ratios in the sector.

LEWIS: Well that was Robert Sharpe of West Bromwich. Thanks, Robert, for talking to us. Live now to talk to Adrian Coles, who's Director General of the Building Societies Association. Adrian Coles, are you happy that West Bromwich stays a member of your society given that it now has shareholders?

COLES: We're delighted that the West Bromwich is staying a member of the BSA. I think what this deal shows is the absolute primacy that building societies and the FSA are giving to the safety of investors' funds. And West Bromwich are tapping a new form of capital that can absorb losses, which means that investors are extremely safe when they invest in the West Bromwich Building Society or indeed in any other building society.

LEWIS: Yes, this new kind of capital sort of invented by the Financial Services Authority. It did say, didn't it, that it might be a model for *other* building societies. Are you concerned that the other half dozen or so who we know have problems might go to this source as well and also have shareholders?

COLES: I think it's important that we keep investors' funds safe. I think it's important that building societies have access to capital to absorb any losses that they might make. I think it's important that we have options that are less bad for investors than nationalisation, takeover, sacking of staff and other fundamental changes. If you look at what this represents, it might represent a slight compromise to some of the principles of mutuality; but compared to some of the alternatives that might face an institution that perhaps has made some loans in the past that it now wishes it hadn't made, I think these are fairly modest changes. And if you look at the safety given to investors and the funds they have, that compromise is one worth undertaking.

LEWIS: So you say some compromise. Why didn't your other bigger members just step in and rescue it, as they have others? Have they lost the appetite for that?

COLES: I think other building societies have done that. What we don't want is a uniform system of helping out weaker building societies. This new form of capital that the FSA has invented now gives a new way forward for building societies that perhaps are facing a loss. I very much welcome that. In some cases, there are mergers between other societies. In other cases, as the West Bromwich has shown, we've had a capital restructuring that has reached the same end: the safety of investors' funds.

LEWIS: And very briefly, do you not fear this is the thin end of the wedge? Now you've got some sort of shareholder, you'll get more, you'll become more like banks and the distinction between the two of you will disappear?

COLES: The important thing, as Robert Sharpe said, is one member-one vote. So even if one institution or shareholder had £180 million invested in the West Bromwich Society, they'd still only have one vote - just the same as all the other members.

LEWIS: Adrian Coles of the Building Societies Association, thanks.

Now what can you do if a debt collection agency wrongly identifies you as someone who owes money? It can be a deeply unpleasant experience, especially if the agency won't accept your denials, and of course it can stop you getting credit yourself. But one Money Box listener found an effective way to get redress. And Bob Howard's here. You've been looking into this, Bob?

HOWARD: Yes, Paul. The debt collection industry estimates its members try and trace 9 million people a year, but the worry is that people could be being pursued for money they don't owe simply because they share the same name. Mike Thompson from Buckinghamshire contacted Money Box after he became involved in a long running case of mistaken identity.

THOMPSON: I received a letter in August of 2007 and it said that I owed a debt of £649. And I knew that I didn't owe that debt.

HOWARD: Mike was sure because he discovered the debt was owed to a finance company he had never dealt with. When the debt collection company that was pursuing him - Aktiv Kapital - threatened court action to recover the money, Mike told the firm it had got the wrong Mike Thompson and he asked for evidence of the debt. In January this year, 18 months after he was first contacted, he believed he'd finally convinced the company he was not the person they were seeking. But the very next day, he received news which persuaded him to take strong action.

THOMPSON: I became aware that my credit was being refused. I checked my credit reference agency and discovered that Activ Kapital had put a default notice on my credit references. I was obviously outraged, but at that time I had a very good firm of solicitors acting on my behalf. I was informed that that was the point at which we could take legal action and court proceedings in the High Court.

HOWARD: Mike's solicitor told Activ Kapital that unless it paid damages and apologised, there were grounds for him to consider suing for defamation. That was because the details of the debt Mike didn't owe could now be accessed by any finance company checking his credit record, adversely affecting his reputation. After weeks of negotiations, last month Activ Kapital paid him £6,725 in damages and costs and issued a public apology. So could others threaten to take this sort of action and would it work if it reached court? Solicitor Sarah Webb, a defamation expert, believes a claimant like Mike would have a strong case, but to succeed he would have to overcome significant legal protection given to the firms involved.

WEBB: The companies can rely on the defence of 'qualified privilege', and to overcome that the claimant would have to show the company that was pursuing them for the debt and passing it onto the credit reference agency that they had been reckless in passing on the wrong name; they'd got the wrong person.

HOWARD: To win, claimants would also have to be prepared to overcome financial hurdles as well. Simon Cook is Mike Thompson's solicitor.

COOK: If a member of the public's threatened to sue for defamation, it would only carry any weight if the person on the receiving end really believed that a defamation action was in the offing. You can't get legal aid for defamation. Most people can't afford the cost of the proceedings. Even if he'd won the proceedings, he wouldn't necessarily have recovered all his costs.

HOWARD: The best solution would of course be to stop these mistakes being made in the first place; and if they do happen, prevent them being published by the credit reference industry. But there's little evidence that the firms involved are looking to make significant changes. James Jones from one of the three credit reference agencies, Experian, believes his firm already has sufficient safeguards in place.

JONES: We test the data before it's added to credit reports. We monitor the data on an ongoing basis and report any discrepancies back to the organisations. And, importantly, we also monitor the things that consumers are querying with us and use that to very quickly spot any emerging problem.

HOWARD: The firm that pursued Mike - Activ Kapital - wouldn't speak to us, but its trade body, the Credit Services Association, has recently issued new guidelines to companies attempting to trace people. Kurt Obermaier is the association's Executive Director.

OBERMAIER: The very essence of our industry is to deal with people that say "It's not me" or "I don't owe this money". So there is a certain amount of scepticism at the start. If you continue getting collection letters, they are required to have a proper complaints procedure. You can complain to the chief executives.

HOWARD: But Mike Thompson wants much more. He insists changes need to be made to stop innocent people like him being targeted.

THOMPSON: Many of these agencies do not care about people. They're just pursuing debt as a machine. People who they should truly chase are being wrapped up with innocent people who owe nothing.

LEWIS: Mike Thompson ending Bob Howard's report. And you can let us know your thoughts and experiences of being chased for a debt that isn't yours through Have Your Say on our website, bbc.co.uk/moneybox.

Seven months after the Presbyterian Mutual Society went into administration, nearly 10,000 savers in Northern Ireland have not got back a penny of the £300 million they entrusted to it. They feel they've been treated very differently from savers in the rest of the UK, none of whom have lost any money when banks or building societies have collapsed. For example, in March the Scottish building society Dunfermline failed after making similar bad bets on the property market. At the time, Gordon Brown said this:

BROWN: Let me just repeat the promise I've made to people before; that savers will be protected, that it's important to recognise that throughout this whole crisis that everyone who's been saving in a UK institution has been protected whenever there has been a difficulty in that institution.

LEWIS: Well the Prime Minister's statement seemed clear enough, and next Wednesday Gordon Brown has agreed to meet Northern Ireland's First and Deputy First Ministers to discuss the Presbyterian Mutual's collapse. But the Government has told Money Box that although Gordon Brown is "deeply sympathetic", the customers of the Presbyterian were not savers. They were investors, shareholders in the mutual society, and therefore his promise to savers remains true. A point I put to Ian McGimpsey who represents Presbyterian policyholders in Northern Ireland.

MCGIMPSEY: When we say it's shares in a mutual society, it's what is termed as power value shares - £1 in, £1 out. They're not linked to the stock market, nor they're not equity shares. £1 in, £1 out. If you put in £100, you get £100 back.

LEWIS: So you and your other campaigners see this purely as savings, not as shares?

MCGIMPSEY: Oh yes, certainly. You see you have to buy the shares. You're allowed to buy up to 20,000 pounds worth of shares. If you even only buy £1 of shares, that entitles you to enter the PMS as a saver.

LEWIS: When the Dunfermline Building Society collapsed in March, Gordon Brown said "everyone who's been saving in a UK institution has been protected". How do you react to that statement?

MCGIMPSEY: That is not true. Every other institution has been assisted here.

LEWIS: What do you want the Government to do?

MCGIMPSEY: Well I would like the Government to have a meaningful solution mutually beneficial to both PMS savers and to the UK government. We'd be for the PMS to be transferred, assets and liabilities to an already nationalised financial institution. I have been lobbying all over the whole province and the hardship stories of the people are just horrendous. There's people who've sold businesses here, Paul. They put their money in the Presbyterian Mutual. They haven't got the money now to pay for their income tax. They're having to borrow it. And we're talking about very substantial money here. There's also people in residential care homes and nursing homes and their savings are frozen in here, and they're in terrible difficulty and they're so worried.

LEWIS: Ian McGimpsey. Well live now to Northern Ireland to talk to Jeffrey Donaldson MP, who's also a Member of the Northern Ireland Assembly where he is a minister in the Office of the First and Deputy First Ministers. Jeffrey Donaldson, we heard some of the hardship that's being caused there. Other people obviously relying on income from these savings. What does the First Minister hope to get out of meeting with Gordon Brown on Wednesday?

DONALDSON: Well good afternoon, and indeed we are very much aware of the significant hardship that exists amongst savers with the Presbyterian Mutual, and the object of the meeting with the Prime Minister is to hold him to his promise that every saver in the UK would get their money back in circumstances where a financial institution gets into difficulties. Now what happened with the PMS is directly linked to the Government's decision to introduce and increase the guarantee scheme for financial institutions in the UK. It wasn't a question of the PMS itself precipitating this crisis. What happened was that many of the savers withdrew their savings with the PMS because they weren't getting a guarantee, and in those circumstances the administrator had to be called in. So we believe the Government has a responsibility here to do the same thing as they did for the Dunfermline Building Society and indeed for the Bradford & Bingley.

LEWIS: But the reason they didn't get that guarantee was exactly the reason the Government's now given for not giving them the money back, because they say they were not savers, they were shareholders and they bought shares - albeit it at £1 for a £1 - but they bought shares and that puts them in a different class.

DONALDSON: Well we don't accept that and we believe that a mutual society like the PMS is on a par with building societies who've been helped by the Government. And we've heard about some of those and indeed the banks as well. And if you're living in Northern Ireland as a British citizen and you hear your Prime Minister say that all savers will have their money protected and yet British investors in an overseas bank like the Icelandic Bank Icesave can have *their* savings protected, an offshore bank, and yet a UK financial institution like the Presbyterian Mutual, their savers can't have their savings protected, we just think that's unfair. We believe, as Ian McGimpsey has explained, that a package can be put together involving the government guarantee scheme and another financial institution.

LEWIS: Yes. But in the Commons, the Northern Ireland Secretary of State said this was "a devolved matter". Why can't the devolved government, your assembly, provide compensation? Or indeed the Presbyterian Church in Northern Ireland?

DONALDSON: Well the legal advice we have is that it's not in fact a devolved matter in relation to government intervention. Whilst the PMS is registered with the Department of Enterprise in Northern Ireland, ultimately financial services is not a devolved matter, banking is not a devolved matter. Those are matters that are dealt with by Westminster. And the Secretary of State did say in the House of Commons that he was prepared to intervene and now we're looking to the Prime Minister to see what that government intervention will be.

LEWIS: Jeffrey Donaldson, thanks. And that meeting, as I said, on Wednesday.

Now there is more hope this weekend for the 85,000 people whose investments were managed by Keydata Investment Services, which called in the administrators earlier this week. The investments it managed were mainly structured products. They're designed to protect the capital of investors while giving them some of the growth in share prices. They were sold through banks and building societies as well as directly. Keydata collapsed after it couldn’t pay an unexpected tax bill, but it now seems that at least the money held by investors is safe. Dan Schwartzmann of PricewaterhouseCoopers has been appointed Administrator.

SCHWARTZMANN: Our focus right at the beginning of the administration was to check whether investors’ funds were secure, and I’m pleased to say that from everything I’ve seen I’m confident that the investors’ funds are fully secure.

LEWIS: So they’ve been kept ring fenced in separate accounts - even people who’ve just invested, where the money is still with Keydata, before being passed onto some investment product?

SCHWARTZMANN: Indeed. I see nothing to cause any concern. There has been an issue about whether some of the investments are qualifying ISA’s and there has been some confusion in that if they haven’t been qualifying ISA’s, I think there has been some concern that the funds underlying those are not secure. But that is not correct. They are secure.

LEWIS: This is what’s caused the problem - isn’t it, as I understand it; that some of the money they invested in what people thought were ISA’s, Individual Savings Accounts, didn’t actually qualify for that status, so the tax relief wasn’t valid and therefore tax has become due and that’s what sent Keydata to the wall?

SCHWARTZMANN: Yes, that has been a big part of the problem.

LEWIS: Does that mean that people who had money in these products that they thought were ISA’s will in fact have to pay tax themselves?

SCHWARTZMANN: We are beginning our discussions with HM Revenue & Customs to try and resolve this matter, and at the moment I really couldn’t say whether it’s going to be the individual that suffers or actually whether it’s the company.

LEWIS: And of course if it is the company, HMRC aren’t going to get their money because it’s gone out of business.

SCHWARTZMANN: Well it has gone out of business, but what we’re trying to do at the moment is we’re trying to sell that business and hopefully recover funds in so doing. I’m very confident that selling the company is a going concern. In fact the number of parties interested now in the company is over 40. We’re looking for final offers very early next week and I’m hopeful that we can sell the company by the end of next week.

LEWIS: You said that people’s capital is safe. Does that mean if you do sell the company that they will continue to get their income and that they can have their capital back, as promised, when those products mature?

SCHWARTZMANN: We are at the moment trying to resume some level of processing to ensure that there is confidence in the company. Once we sell the company, hopefully the processing that took place before the company went into administration will resume as normal.

LEWIS: But there must be some people who were expecting their income payment this week or next week …

SCHWARTZMANN: Indeed.

LEWIS: … who may not get it. That’s going to be a nerve-wracking time for them. Will they get their regular payments - which they live off in many cases - will they get that soon?

SCHWARTZMANN: Paul, you’re absolutely right. We certainly are aware of the concerns. We’re certainly trying to do as much as possible within the confines of the administration. So we have resumed the movement of money, but not for everybody. We are trying to prioritise at the moment. As soon as the company is sold, then it’s outside of this administration and hopefully processing will resume as before the company was in administration.

LEWIS: You said you’re prioritising. Does that mean that some people are getting payments and some people are not?

SCHWARTZMANN: Some of the funds are maturing, so we're actually trying to focus on where the last payments are. As we go through the next week, we'll actually start looking at income payments as well.

LEWIS: So it is possible that some people who will have expected a payment into their bank account will not have seen it, but they can be confident that money will be there relatively soon?

SCHWARTZMANN: From everything I see at the moment, they should be very confident.

LEWIS: Dan Schwartzmann. And since I talked to him, the Revenue has told Money Box it wants to "protect the tax position of ISA investors as far as possible". There are links to the latest news on Keydata's administration on our website, bbc.co.uk/moneybox.

The cost of fixed rate mortgages is going up as lenders are passing on a rise in the price they pay for the money they lend to us called swap rates. This week, Britain's biggest building society, Nationwide, increased all its fixed rate mortgage deals for new customers. Other lenders have also raised the price of some of their deals. Live now to Bath to talk to David Hollingworth of mortgage brokers London & Country. David, just go through some of the rises that you've seen.

HOLLINGWORTH: Well I mean Nationwide's the most significant lender. They had rises of as much as .86. I would hasten to add that not all the deals went up quite so significantly - some more like .2%. Yorkshire Building Society, all their deals between .2, .5%. And other lenders, as you say, have been picking out certain areas. Skipton, for example, late yesterday withdrew all their 3 and 5 year fixed rates.

LEWIS: Right. So does that imply that now's the time to go for a fix if you can still find a decent rate?

HOLLINGWORTH: I think so. I think we've been seeing a gradual creep. The swap rates have been bumping up and down for a little while now. There's been a gradual creep in some of the deals - particularly in the 5 year market, which is actually quite a popular sector at the moment - but I think now with this flurry of activity from lenders where a lot of them have started to withdraw and re-price, it does look like we've reached that turning point where fixed rates start to rise.

LEWIS: Yes. And of course a lot of people are on variable rates now because they've come off fixes and they're thinking well when should I jump? You're saying now is sort of the time to go.

HOLLINGWORTH: Yeah.

LEWIS: If they do go, what are the best deals at the moment?

HOLLINGWORTH: Well I mean there's still lots of lenders who've yet to make moves, so there are opportunities. First Direct, for example, has a very good 2 year fix rate at 2.99%. And if we look at the 5 year market - and as I say the medium term is looking more attractive now - Britannia, they've launched a range only recently and their deal is still there at 4.44 on a 5 year fix rate. So around 4.5% on a 5 year is still achievable.

LEWIS: David Hollingworth from London & Country, thanks very much. And, Bob, some worrying figures on fraud just out?

HOWARD: Yes, more people are losing control of their bank account or credit card to criminals, known in the industry as 'takeover fraud'. It happens when somebody gains access to and plunders the accounts of innocent victims. They've increased by 75% in the last year, according to the fraud prevention service CIFAS, and it seems criminals are increasingly choosing to try and take over existing accounts rather than trying to open new ones, with many banks now turning down new credit applications.

LEWIS: Thanks, Bob. Well that's it for today. You can find out more from the BBC Action

Line - 0800 044 044 - and of course our website, bbc.co.uk/moneybox, where you can watch videos, sign up to my weekly newsletter, download a podcast, listen again, and of course have your say on debts you don’t owe. And, my goodness, a lot of you are. I’m back on Wednesday afternoon with Money Box Live, taking your questions on paying for long-term care. Personal finance stories Working Lunch, BBC2 weekday lunchtimes. Back with Money Box next weekend. Today the reporter Bob Howard, producer Caroline Bayley, and I’m Paul Lewis.