Party: Applicant / Proposed Representative
Witness: Michael O'Higgins
Number of Statement: First
Exhibits: MOH1-4
Dated: 28 July 2019

**IN THE COMPETITION APPEAL TRIBUNAL** **Case no. _____________**

**B E T W E E N : -**

**MICHAEL O'HIGGINS FX CLASS REPRESENTATIVE LIMITED**

**Applicant /**
**Proposed Representative**

**-and-**

**(1) BARCLAYS BANK PLC**
**(2) BARCLAYS CAPITAL INC.**
**(3) BARCLAYS EXECUTION SERVICES LIMITED**
**(4) BARCLAYS PLC**
**(5) CITIBANK N.A.**
**(6) CITIGROUP INC.**
**(7) JPMORGAN CHASE & CO.**
**(8) JPMORGAN CHASE BANK, NATIONAL ASSOCIATION**
**(9) J.P. MORGAN EUROPE LIMITED**
**(10) J.P. MORGAN LIMITED**
**(11) NATWEST MARKETS PLC**
**(12) THE ROYAL BANK OF SCOTLAND GROUP PLC**
**(13) UBS AG**

**Respondent /**
**Proposed Defendants**

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**EXHIBIT MOH1**

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This is the exhibit marked "MOH1" referred to in the first witness statement of Michael O'Higgins dated 28 July 2019.

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**Michael O'Higgins**
Dated 28 July 2019

Bloomberg

# Citigroup Hit Hardest as EU Fines Banks $1.2 Billion Over FX

*By*
*Aoife White*
*and*
*Stephanie Bodoni*
May 16, 2019, 10:46 AM GMT+1 Updated on May 16, 2019, 3:45 PM GMT+1

- EU says traders colluded in online chats on trading strategies
- RBS, JPMorgan, Barclays, MUFG also fined; UBS escapes penalty

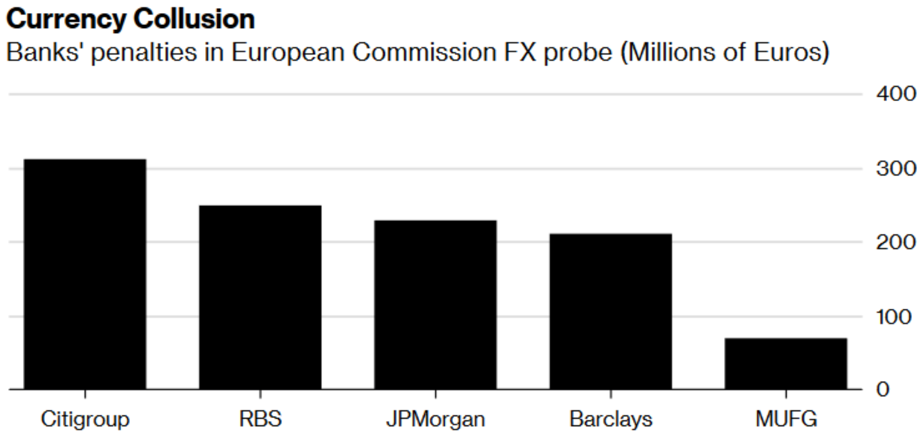


Citigroup Inc., Royal Bank of Scotland Group Plc and JPMorgan Chase & Co. are among five banks that agreed to pay European Union fines totaling 1.07 billion euros ($1.2 billion) for colluding on foreign-exchange trading strategies.

Citigroup was hit hardest with a 310.8 million-euro penalty, followed by fines of 249.2 million euros and 228.8 million euros for RBS and JPMorgan, the European Commission said in a statement on Thursday. Barclays Plc was fined 210.3 million euros and Mitsubishi UFJ Financial Group Inc. must pay nearly 70 million euros as part of the settlement with the EU's antitrust regulator.

Traders ran two cartels on online chatrooms, swapping sensitive information and trading plans that allowed them to make informed decisions to buy or sell currencies, the regulator said. Many of them knew each other, calling one chatroom on the Bloomberg terminal the "Essex Express n' the Jimmy" because all of the traders but one met on a commuter train from Essex to London. Other names for rooms were the "Three Way Banana Split" and "Semi Grumpy Old Men."

"Foreign exchange spot trading activities are one of the largest markets in the world, worth billions of euros every day," EU Competition Commissioner Margrethe Vestager said. "These cartel decisions send a clear message that the commission will not tolerate collusive behavior in any sector of the financial markets."




While relatively large, the cartel fines are lower than a 1.3 billion-euro penalty for banks for rigging Euribor rates and below a record 3.8 billion-euro penalty for collusion between truckmakers.

UBS Group AG escaped a fine because it was the first to tell regulators about the collusion. The five other banks won reduced penalties by striking a settlement with the commission that won't allow them to challenge the EU's findings. Credit Suisse Group AG was separately charged by the EU over FX collusion last year. That case is part of another EU probe into possible collusion that may have taken place in another chatroom.

The Swiss bank "did not participate in any of the two infringements on which we took a decision today," commission spokesman Ricardo Cardoso told journalists in Brussels on Thursday. "The case concerning Credit Suisse is following an ordinary procedure" rather than a settlement "and this relates to an alleged infringement which may have taken place in another chatroom."

Zurich-based Credit Suisse said it "does not believe that its employees engaged in any conduct in the FX markets which violated" EU antitrust rules. The bank said it continues "to cooperate fully" with the commission "but intends to vigorously contest the substance of the allegations."

Traders' manipulation of benchmark foreign-exchange rates was exposed in 2013 Bloomberg articles, triggering regulatory probes in the U.S., the U.K. and Switzerland. More than a dozen financial institutions have paid about $11.8 billion in fines and penalties globally, with another $2.3 billion spent to compensate customers and investors. Former U.S. attorney general Loretta Lynch in 2015 said the banks engaged in a "brazen display of collusion" to game markets.

"Today's fine is a further reminder of how badly the bank lost its way in the past and we absolutely condemn the behavior of those responsible," RBS said in an emailed statement. "This kind of behavior has no place at the bank we are today; our culture and controls have changed fundamentally during the past ten years."

JPMorgan said the bank is "pleased to resolve this historical matter, which relates to the conduct of one former employee" and has now "made significant control improvements."

MUFG is “committed to ensuring integrity and compliance with the regulatory authorities in every jurisdiction in which we operate, and have taken a number of measures to prevent this occurring again,” the bank said in a statement. Citigroup and Barclays declined to comment.

The fines for Barclays and RBS are covered by the two British banks’ existing provisions and in line with expectations, according to Edward Firth, an analyst with Keefe, Bruyette & Woods in London.

The effects of the EU decision on banks will be “relatively mild, because the fines aren’t huge,” said Aitor Ortiz, an analyst at Bloomberg Intelligence. Referring to the third probe involving Credit Suisse, he said “we may still have to wait another year” to see the decision, because the bank has refused to join a settlement that would grant lower fines.

Traders exchanged information about outstanding customers’ orders, bid-ask spreads, their open-risk positions and details of current or planned trading activities. They would sometimes agree to "stand down" or stop a trading activity to avoid interfering with another trader in the group. They traded 11 currencies, including the euro, the U.S. dollar, the British pound and the Japanese yen.

FX Riggers Rode the ‘Essex Express;’ Split Bananas Three Ways

While the U.S. has won guilty pleas from JPMorgan, Citigroup, RBS and Barclays, three British traders in a group known as “The Cartel” were acquitted by a U.S. federal court last year of using a chatroom to coordinate trades and manipulate prices on the spot exchange rate for euros and U.S. dollars.

The EU is continuing to investigate banks for possible EU antitrust violations.

Deutsche Bank AG, Credit Suisse and Credit Agricole SA are targeted by an EU probe into a suspected cartel for trading of U.S. dollar supra-sovereign, sovereign and agency bonds via online chatrooms between 2009 and 2015.

Eight banks are the focus of yet another EU probe looking at the trading of eurozone sovereign bonds from 2007 to 2012. UniCredit SpA said it faces a possible fine from the eurozone probe. RBS is also one of the banks being probed, a person said in February.

The EU regulator is also looking at "potential coordination in options trading" in the FX market, HSBC Holdings Plc said in its annual report in February. HSBC received questions from regulators in October and the investigation is at an early stage, it said.

*— With assistance by Donal Griffin, Patrick Winters, and Viren Vaghela*

(Updates with background on EU probe involving Credit Suisse, and bank statement starting in seventh paragraph.)

Forex trading probes

# EU fines five banks €1bn over foreign exchange cartel

Traders at RBS, Barclays, Citi, JPMorgan and MUFG used chat rooms to rig forex spot trading


Citigroup will kick of the US bank earnings season on Monday, closely watched by traders in New York for signs of what changing interest rate expectations mean for the sector. Photographer: Michael Nagle/Bloomberg © Bloomberg

Rochelle Toplensky in Brussels, Stephen Morris and Eva Szalay in London MAY 16, 2019

Barclays, Citigroup, Royal Bank of Scotland, JPMorgan and Japan's MUFG have been fined more than €1bn by the EU's competition watchdog for rigging the multitrillion-dollar foreign exchange market after the last financial crash.

The conclusion of the five-year European investigation into benchmark currency rate manipulation is the latest in a scandal that shocked the banking industry when allegations first surfaced in 2013. Since then, more than a dozen financial institutions have paid almost $12bn in fines around the world.

The EU probe identified two separate cartels of traders — dubbed the "Three Way Banana Split" and "Essex Express" — that used online chat rooms to share information about customers' orders, prices and other trading activities in order to manipulate the spot currency markets. Most of the traders knew each other on a personal basis, according to the European Commission, also using other chat rooms such as the "Semi-Grumpy Old Men".

Citigroup was hit with the biggest fine of €311m, followed by RBS with €249m, JPMorgan at €229m, Barclays at €210m and MUFG with €70m. UBS also participated but avoided a €285m fine as it was the first to alert the EU to the cartels. The other banks settled the charges, and all but MUFG also applied for leniency which reduced fines by between 10 and 50 per cent.

The decision will clear the way for civil suits in the region, with law firm Scott and Scott poised to launch the European leg of a US class-action lawsuit that resulted in a $2.3bn settlement with 15 banks.

**These cartel decisions send a clear message that the commission will not tolerate collusive behaviour in any sector of the financial markets**

**Margrethe Vestager, European competition commissioner**

The market-rigging activity took place between 2007 and 2013, and involved 11 currencies, including the euro, pound and dollar. The information shared by traders "enabled them to make informed market decisions on whether to sell or buy the currencies they had in their portfolios and when. Occasionally, these information exchanges also allowed the traders to identify opportunities for co-ordination," said the EU.

The EU said there was another investigation involving Credit Suisse, regarding "an alleged infringement which may have taken place in another chatroom” but it declined to provide any further details.

Credit Suisse said it “does not believe that its employees engaged in any conduct in the FX markets which violated the European Union’s competition rules”. It added that it was co-operating with the EU investigation “but intends to vigorously contest the substance of the allegations”.

“Foreign exchange spot-trading activities are one of the largest markets in the world, worth billions of euros every day,” said Margrethe Vestager, European competition commissioner. “These cartel decisions send a clear message that the commission will not tolerate collusive behaviour in any sector of the financial markets.”

JPMorgan said: “We are pleased to resolve this historical matter, which relates to the conduct of one former employee. We have since made significant control improvements.”

Barclays declined to comment. The British bank took a £240m provision related to the forex probe at the end of 2017, according to a filing.

RBS acknowledged the conclusion of the investigation and said its €249m fine was “fully covered by existing provisions”. It added that it was co-operating with other unnamed authorities on further, similar probes into past misconduct in currency trading and could face more “material” penalties and consequences.

Lawyers for investors in the US civil case have been waiting for the ruling to launch the European leg of claims. David Scott, managing partner of Scott and Scott, the co-lead on the US class-action claim, said European investors remained uncompensated.

Belinda Hollway, a Scott and Scott partner, said: “We’ve been waiting for this step before initiating a recovery action. Our firm will be working to recoup losses suffered by non-US pension funds, asset managers, insurance companies and multinational corporations, among others, as a result of the banks’ wrongdoing.”

In December, law firm Quinn Emanuel filed a claim for damages in London in a 200-page document against RBS, UBS, HSBC, Barclays, Citigroup and JPMorgan, alleging that they manipulated the currencies markets, according to Boris Bronfentrinker, a partner at the law firm.

## Litany of FX litigation

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**JUNE 2013**

Press reports emerge of collusion and manipulation of the 4pm WM/R benchmark

**NOVEMBER 2014**

UK's Financial Conduct Authority fines Citi, JPMorgan, HSBC, Royal Bank of Scotland and UBS a total of $1.7bn. The Commodity Futures Trading Commission levies a $1.4bn penalty on the same banks

The Office of the Comptroller of the Currency fines Citi and JPMorgan $700m

Swiss regulator FINMA issues a $138m penalty to UBS

**MAY 2015**

The US Department of Justice agrees guilty pleas with Citicorp, JPMorgan, Barclays, Royal Bank of Scotland and UBS for a total fine of $2.7bn

The US Federal Reserve fines UBS, Barclays, Citi, JPMorgan, RBS and Bank of America a total of $1.8bn

**JUNE 2015**

The New York Department of Financial Services issues a penalty of $205m to Deutsche Bank

**NOVEMBER 2015**

The New York Department of Financial Services fines Barclays an additional $150m

**MAY 2017**

The New York Department of Financial Services fines BNP Paribas $350m

**JULY 2017**

The US Federal Reserve Board fines BNP Paribas $246m

**NOVEMBER 2017**

The New York Department of Financial Services fines Credit Suisse to the tune of $135m

**JUNE 2018**

The New York Department of Financial Services fines Deutsche Bank $205m

**FEBRUARY 2019**

The New York Department of Financial Services fines Standard Chartered $40m