

Those affected by foreign exchange spot trading cartels between 2007 and 2013 could receive redress from proposed collective claims

THIS NOTICE

This is a legal notice published at the direction of the UK Competition Appeal Tribunal (the “Tribunal”) made in Cases 1329/7/7/19 and 1336/7/7/19. The applicants in those cases – referred to herein as the “Applicants” – have applied for permission to begin collective proceedings. Further information about the applications appears below and can be obtained from the Tribunal’s website.

The Applicants have separately filed applications for permission to bring collective proceedings against certain entities forming part of the following banking groups (or a subset of them):

(1) Barclays; (2) Citigroup; (3) JPMorgan; (4) MUFG Bank (formerly Bank of Tokyo-Mitsubishi); (5) Royal Bank of Scotland/NatWest; and (6) UBS (the “**Banks**”).

Each of the Banks has admitted infringements of EU competition law in relation to foreign exchange (“**FX**”) spot trading, as is explained further below.

The Consumer Rights Act 2015 allows collective proceedings to be brought on behalf of a group or groups of persons (known as a “class” or “classes”) who are alleged to have suffered loss as a result of unlawful anticompetitive conduct. For collective proceedings to be brought, the Tribunal must first make a collective proceedings order (a “**CPO**”) authorising a person to act as a representative of the class and certifying the eligibility of the claims for inclusion in collective proceedings.

The Applicants each seek the Tribunal’s permission for one of them to bring collective proceedings for damages against the Banks on behalf of proposed classes of persons who it is alleged have suffered losses due to the Banks’ participation in the infringements of EU competition law.

This notice is for your information as you may have a right to take part in the Tribunal’s consideration of these two applications by submitting written observations or applying to be heard at the CPO hearing which is scheduled to commence on **12 July 2021**.

THE PROPOSED CLAIMS

The proposed claims rely on two decisions of the European Commission (the “**Commission**”) dated 16 May 2019 (the “**Decisions**”). The Commission found that, between 18 December 2007 and 31 January 2013, traders employed by the Banks exchanged commercially sensitive information and trading plans and occasionally coordinated their trading strategies through various private, online professional chatrooms, contrary to EU competition law. The

commercially sensitive information exchanged in these chatrooms related to outstanding customers' orders, bid-ask spreads, the Banks' open risk positions and other details of current or planned trading activities in the FX market. The information exchanges enabled the Banks to make informed market decisions on whether to sell or buy the currencies they had in their portfolios on given terms and when.

Both of the proposed claims allege that this conduct led to the prices of FX spot and outright forward transactions being distorted, with the result that proposed class members entered into those transactions on terms that were less advantageous to them than would otherwise have been the case in the absence of the unlawful conduct. The purpose of each claim is to secure compensation for losses suffered as a result of entering into such transactions involving the G11 currencies with any of the Banks and/or other relevant financial institutions, which are identified at the end of this notice.

The proposed claims have some aspects in common but there are also some important differences between them. For further information on each of the claims, please see the following links:

https://tinyurl.com/EvansCATSummary
https://tinyurl.com/OHigginsSummary
Websites
www.ukfxcartelclaim.com
www.fxclaimuk.com

THE APPLICANTS

When considering the question of certification – which is not automatically granted – the Tribunal must consider whether the Applicant in each case would be suitable to represent the proposed class(es). In this case, there may (additional to the question of certification) be a question as to which Applicant should be certified. Members of the proposed classes should, therefore, be aware that it is unlikely that, given their present proposed constitution, *both* Applicants will be successful in their applications.

THE PROPOSED CLASS DEFINITIONS

The Applicants have defined the classes slightly differently in each of their proposed claims (in particular, one Applicant proposes a single class, whereas the other has proposed two classes). But in summary, the proposed claims are brought on behalf of persons who, during the period from 18 December 2007 to 31 January 2013, entered into certain FX spot and outright forward transactions (other than certain excluded transactions) involving G11 currency pairs with the Banks and/or other relevant financial institutions (which are identified at the end of this notice) in the European Economic Area (other than as an intermediary).

If a claim were certified: those who are domiciled in the UK and fall within the class definition of the claim that the Tribunal certifies would automatically be included in that claim, and would be bound by any judgment or settlement, unless they choose to opt out. Those who are not domiciled in the UK but wish to participate in the claim would have the opportunity to opt in to the claim.

HEARING OF THE APPLICATIONS

A hearing will take place on **12-16 July 2021** to decide whether any of the proposed claims can proceed and if so, which of the Applicants is more suitable to represent the class(es) going forward. Subject to any arrangements arising from the Covid-19 pandemic, the location of the hearing will be: Competition Appeal Tribunal, Salisbury Square House, 8 Salisbury Square, London, EC4Y 8AP.

YOUR LEGAL RIGHTS AND OPTIONS NOW

<p>Object to the applications or the Applicants</p>	<p>Any person with an interest (including any member of the proposed class(es)) may object to either or both of the applications or the authorisation of either or both of the Applicants by stating their reasons for objecting in writing to be received by the Tribunal by 4pm on 4 May 2021.</p>
<p>Apply to make oral/written submissions to the Tribunal</p>	<p>Any member of the proposed class(es) may also seek permission to make written and/or oral submissions at the hearing on 12 July 2021. Any such application must be made in writing, supported by reasons, to be received by the Tribunal by 4pm on 4 May 2021.</p> <p>Any third party with an interest (who is not a member of the proposed class(es)) may also apply to the Tribunal for permission to make written and/or oral submissions at the hearing on 12 July 2021. Any such application must be made in writing, supported by reasons, to be received by the Tribunal by 4pm on 4 May 2021.</p>
<p>Tribunal's contact details</p>	<p>The Registrar, Competition Appeal Tribunal, Salisbury Square House, 8 Salisbury Square, London EC4Y 8AP. The Tribunal's website is www.catribunal.org.uk.</p> <p>When writing to the Tribunal you need to include the reference(s) "Case 1329/7/19 <i>Michael O'Higgins FX Class Representative Limited v Barclays Bank PLC & Others</i>" and/or "Case 1336/7/19 <i>Phillip Evans v Barclays Bank PLC and Others</i>".</p>

RELEVANT FINANCIAL INSTITUTIONS

The proposed claims include certain FX spot and outright forward transactions entered into with the Banks and/or other relevant financial institutions. A full list of the institutions included in the proposed claims is set out in the table below.

1. ABN Amro	22. Crédit Agricole CIB	42. Nationwide Building Society*
2. Adam & Co	23. Credit Suisse	43. Natwest / Royal Bank of Scotland
3. ANZ	24. Danske Bank*	44. Nomura
4. Banco Bilbao Vizcaya Argentaria SA (BBVA)*	25. Deutsche Bank	45. Norinchukin Bank*
5. Bank of America	26. Goldman Sachs	46. Rabobank
6. Bank of America Merrill Lynch	27. Halifax Bank of Scotland (HBOS)	47. Royal Bank of Canada
7. Bank of China*	28. HSBC	48. Skandinaviska Enskilda Banken
8. Bank of Montreal*	29. Hypovereinsbank (HVB)	49. Société Générale
9. Bank of New York Mellon	30. ING Bank	50. Standard Chartered
10. Bank of Nova Scotia*	31. ICBC Standard Bank*	51. State Street
11. Bank of Scotland	32. JP Morgan	52. Sumitomo Mitsui Banking Corporation*
12. Barclays	33. Lehman Brothers	53. Svenska Handelsbanken*
13. BNP Paribas	34. Lloyds Banking Group	54. Toronto-Dominion
14. Canadian Imperial Bank of Commerce*	35. Lloyds TSB	55. Unicredit
15. Calyon	36. Macquarie Bank*	56. UBS
16. CIBC World Markets*	37. Merrill Lynch	57. Westpac Banking Corporation
17. Citigroup / Citibank	38. Mitsubishi Union Financial Group / Bank of Tokyo Mitsubishi	
18. China Construction Bank*	39. Mizuho Corporate Bank*	
19. Commerzbank*	40. Morgan Stanley	
20. Commonwealth Bank of Australia	41. National Australia Bank	
21. Coutts & Co		

** entities marked with an asterisk are included in only one of the proposed claims.*

For the avoidance of doubt, the Applicants do not allege that all of the financial institutions on this list were involved in anticompetitive conduct, simply that the anticompetitive conduct by the Banks identified in the Decisions affected pricing by all these entities, even those not involved in any anticompetitive conduct.