

Customers affected by banks' participation in foreign exchange spot trading cartels between 2007 and 2013 could benefit from proposed collective action

This is a legal notice that has been issued at the direction of the Competition Appeal Tribunal

The Competition Appeal Tribunal (“**Tribunal**”) has decided that a collective action filed on behalf of persons who have allegedly suffered losses as a result of cartels participated in by certain entities forming part of the banking groups of Barclays, Citigroup, JPMorgan, MUFG Bank (formerly Bank of Tokyo-Mitsubishi), RBS/NatWest, UBS, HSBC and Credit Suisse¹ may proceed to a full trial.

Mr Phillip Evans will act as the class representative on behalf of two “classes” of persons. Mr Evans’ claim relies on two decisions by the European Commission (“**Commission**”) dated 16 May 2019 and two decisions by the Commission dated 2 December 2021. In each decision, the Commission found that traders in charge of foreign exchange (“**FX**”) spot trading at certain of the banks listed above exchanged commercially sensitive information and trading plans and occasionally coordinated their trading strategies and thereby infringed EU competition law.

The claim is brought on behalf of participants in the FX market who entered into spot trades and/or outright forward transactions in the European Economic Area (and the successor(s) in title of any such participant who entered into such a trade or forward transaction) involving the so-called “G10 currencies”² with any of Barclays, Citigroup, JPMorgan, MUFG Bank, RBS/NatWest, UBS, HSBC, Credit Suisse and/or another *relevant financial institution*³ between 18 December 2007 and 31 January 2013. For more detailed information, please see Question 7 below.

If you or your business/organisation is domiciled in the UK and falls within the class definition set out below, you will automatically be included in Mr Evans’ collective action, unless you choose to opt-out. If you or your business/organisation is not domiciled in the UK, and you wish to participate in the collective action, then you will have the opportunity to opt in to the claim.

You cannot claim compensation yet, and there is no guarantee that compensation will be available in the future. This claim will have to be proved in the Tribunal at trial or concluded by way of an earlier settlement agreed between the class representative and the banks.

You have important legal rights relating to this claim. Exercising these rights could affect your ability to obtain a payment of compensation in the future (if the case is won or a settlement is reached and money becomes available). This notice explains the claim, who is covered by the claim, your rights in relation to the claim, how to exercise these rights and any related deadlines. **Please read this notice carefully as your decisions about this claim will have legal consequences.** To read the Tribunal's full Collective Proceedings Order and judgment, which

¹ A full list of the entities that will be defendants to Mr Evans’ collective action is provided below.

² See the list of defined terms used in the class definition enclosed with this notice.

³ See the list of defined terms used in the class definition enclosed with this notice.

allows the claim to proceed, visit www.fxclaimuk.com or www.catribunal.org.uk.

Your legal rights and options now	
STAY IN THE CLAIM	If you are or your business/organisation is domiciled in the UK as of [insert domicile date], and falls within the class definition, or you are or your business/organisation is the successor in title to any person that falls within the class definition and are domiciled in the UK as of [insert domicile date], you do not need to do anything at this time to be part of the claim and you will remain eligible to claim a share of any compensation that may become available in the future. By doing nothing, you give up the right to make an individual claim against the banks in respect of the legal claims in this case and you agree to be bound by judgments the Tribunal may issue in this case.
OPT-OUT	If you are, or your business/organisation is domiciled <u>in</u> the UK as of [insert domicile date], or you are or your business/organisation is the successor in title to any person that falls within the class definition and are domiciled in the UK as of [insert domicile date], you have the right to request to be excluded from the claim (to “opt out”) by [insert date]. By opting out you retain the right to bring your own separate claim against the Defendants. However, if you opt out, you will not be able to claim any compensation which might become available in this case. More information on how to opt out can be found at www.fxclaimuk.com .
OPT-IN	If you are or your business/organisation, is domiciled <u>outside</u> of the UK as of [insert domicile date], but you fall within the class definition, or you are or your business/organisation is the successor in title to any person that falls within the class definition and are domiciled outside of the UK as of [insert domicile date], you will need to “opt in” to the claim. You can complete an Opt-In Form by visiting www.fxclaimuk.com . The deadline for opting in is [insert date].

GENERAL INFORMATION

1. Why has this notice been issued?

The Competition Appeal Tribunal has directed that this notice be issued following a Collective Proceedings Order made on [insert date]. The Order allows this claim to proceed as a collective action on behalf of eligible members of two classes (explained further in Question 7 below). To read the full Order and judgment, visit www.fxclaimuk.com or www.catribunal.org.uk.

This notice has been issued to inform you of the important legal rights you have relating to this

Questions? Visit www.fxclaimuk.com for more information.

claim. Exercising these rights could affect your ability to obtain a payment in the future (if compensation becomes available). This notice explains the claim, who is covered by the claim, your rights in relation to the claim, how to exercise these rights and any related deadlines. **Please read this notice carefully as your decisions about this claim will have legal consequences.**

2. Who is the claim against?

The claim is against the following banks:

- (a) Barclays Bank PLC;
- (b) Barclays Capital Inc.;
- (c) Barclays Execution Services Limited;
- (d) Barclays PLC;
- (e) Citibank N.A.;
- (f) Citigroup Inc.;
- (g) JPMorgan Chase & Co.;
- (h) JPMorgan Chase Bank N.A.;
- (i) J.P. Morgan Europe Limited;
- (j) J.P. Morgan Limited;
- (k) MUFG Bank, Ltd.;
- (l) Mitsubishi UFJ Financial Group, Inc.;
- (m) NatWest Markets Plc;
- (n) NatWest Group Plc (formerly The Royal Bank of Scotland Group plc); ~~and~~
- (o) UBS AG;
- (p) HSBC Holdings PLC;
- (q) HSBC Bank PLC;
- (r) UBS Group AG (as successor to Credit Suisse Group AG);
- (s) Credit Suisse AG;
- (t) Credit Suisse Securities (Europe) Limited.

Collectively, these banks are the “Defendants”.

3. What did the Defendants do wrong? What is the claim?

On 16 May 2019, the Commission adopted two decisions, in which it found that some of the Defendants had participated in one or both of two separate FX spot trading cartels. The total period

covered by the cartels was 18 December 2007 to 31 January 2013.

On 2 December 2021, the Commission adopted two more decisions, in which it found that some of the Defendants had participated in a third, separate FX spot trading cartel. The total period covered by the cartel in both decisions was 25 May 2011 to 12 July 2012.

In each decision, the Commission found that traders employed by the Defendants, which were involved in FX spot trading, had reached an understanding to exchange, and had exchanged, current or forward-looking commercially sensitive information about their trading activities through private, multilateral chat rooms. The traders of most of the Defendants also occasionally coordinated their trading activities.

Mr Evans alleges that entities or individuals who entered into spot trades and/or outright forward transactions involving certain currencies (known as the G10 currencies⁴) with the Defendants or other *relevant financial institutions*⁵ suffered losses as a result of this misconduct.

4. What is the role of the class representative?

The Tribunal has authorised Mr Phillip Evans to serve as the class representative for this claim. As the class representative, Mr Evans will conduct the claim against the Defendants on behalf of all class members, except for those who opt-out of the classes. During the case, Mr Evans is responsible for communicating with the classes and for issuing formal notices, such as this notice. Updates about the claim will be available on the website www.fxclaimuk.com and via various other media.

Mr Evans will make decisions on the conduct of the claim (including instructing the lawyers and experts), and, in particular, will decide whether to present any settlement proposal to the Tribunal for its approval. To assist him, Mr Evans has also engaged a consultative panel, chaired by Lord Carlile of Berriew CBE KC, a crossbench member of the House of Lords who was a deputy High Court judge for 28 years and former member and Chair of the Competition Appeal Tribunal.

5. Who is Phillip Evans?

Mr Phillip Evans is a Co-Director of the Competition Law Forum at The British Institute of International and Comparative Law and an Advisor at Find Others. He has spent almost 20 years working on behalf of victims of anti-competitive conduct. During his career, he has been an Inquiry Chair at the Competition and Markets Authority (CMA) and a Panel Member at the Competition Commission. He also spent nearly a decade at the UK consumer association Which?, where he worked to promote fair markets and competition policy for the benefit of consumers in a range of sectors, including financial services. An economist by training, Mr Evans has also taught at a number of universities, and has written on topics ranging from trade and competition policy

⁴ See the list of defined terms used in the class definition enclosed with this notice.

⁵ See the list of defined terms used in the class definition enclosed with this notice.

to the history and functioning of markets and corporate responsibility.

6. What is the Competition Appeal Tribunal?

The Competition Appeal Tribunal is a specialist tribunal based in London which hears and decides cases involving competition or economic regulatory issues. It publishes its Rules and Guidance, together with information about what it does, on its website: www.catribunal.org.uk.

7. Who is in the classes?

The Consumer Rights Act 2015 (“**2015 Act**”) allows for a collective action to be brought on behalf of a group of persons who are alleged to have suffered loss as a result of anti-competitive behaviour. The group is called a “class” and all those within the group are “class members.” As a result of the 2015 Act, individuals or entities who have suffered losses do not need to each bring an individual claim to obtain compensation. Instead, they may receive compensation through a single, collective claim brought on their behalf by a class representative.

The two classes in this claim are as follows:

CLASS A

All Persons who entered into one or more FX Spot Transaction(s) and/or FX Outright Forward Transaction(s) where each of those same transaction(s):

- (a) was entered into, directly or indirectly via an Intermediary:
 - (i) with a Defendant, during that Defendant’s Relevant Class A Period;
 - (ii) in the European Economic Area; and
- (b) involved a currency pair consisting of two G10 Currencies.

Class A does not include Excluded Persons and Excluded Transactions.

CLASS B

All Persons who entered into one or more FX Spot Transaction(s) and/or FX Outright Forward Transaction(s) where each of those same transaction(s):

- (a) was entered into, directly or indirectly via an Intermediary:
 - (i) with a Relevant Financial Institution, between 18 December 2007 and 31 January 2013, and/or a Defendant during that Defendant’s Relevant Class B Period;
 - (ii) in the European Economic Area; and
- (b) involved a currency pair consisting of two G10 Currencies.

Questions? Visit www.fxclaimuk.com for more information.

Class B does not include Excluded Persons and Excluded Transactions.

A list of defined terms used in the class definition is enclosed with this notice.

8. What is an opt-out claim? What is the “domicile date”?

For UK domiciled persons, this claim is proceeding as an opt-out claim. In simple terms, if you don't opt out, you (whether a legal or natural person who entered into one or more FX Spot Transaction(s) and/or FX Outright Forward Transaction(s) or their successor in title) will remain part of the claim. This means that, if you are living in the UK as a resident, or your business/organisation is domiciled in the UK, as of [insert domicile date], which is known as the “domicile date”, and you fall within the class definition, you are automatically included in the classes (and do not need to do anything) unless you ask to be excluded. Asking to be excluded is also called “opting out” of the claim.

If you (whether a legal or natural person who entered into one or more FX Spot Transaction(s) and/or FX Outright Forward Transaction(s) or their successor in title) are not domiciled in the UK, as of [insert domicile date], but you meet the criteria to be in the classes, and you want to participate in this claim, you must take steps to say that you want to be included. Asking to be included in the claim is called “opting in”.

All class members who remain in the classes or opt in to the classes will be bound by any Tribunal judgment. As a class member, you will not be able to bring an individual claim against the Defendants raising the same issues included in this claim.

This notice explains how to opt-out or opt-in to the classes.

9. What is being claimed?

This claim seeks compensation for all those who have been affected by the cartels. If the claim is successful, all persons who have an eligible claim will be able to seek their share of the compensation.

10. How do I receive payment?

No compensation is available now and there is no guarantee that compensation will be available in the future. The case will have to be won in the Tribunal unless a settlement can be agreed between the class representative and some or all of the Defendants.

The court process can take time, so please be patient. If compensation becomes available, class members will be notified about how to obtain a payment. Please register at www.fxclaimuk.com to stay up to date with developments in the collective action.

HOW TO OPT OUT OR OPT IN

11. I am a member of the Classes and I want to opt out of the claim.

If you wish to opt out, please send a letter to the following address:

FX Claim UK Opt-Outs

[insert address]

Please include the following statement in your letter: “*I want to opt out of the collective claim against Barclays Bank PLC and others, Case No. 1336/7/7/19*”, along with your full name, postal address, email address and telephone number. If you are opting-out on behalf of the estate of a deceased person that you represent, you should include both your name and the name of the person whose estate you represent, and state the capacity in which you act as the representative of that person’s estate (i.e. as executor or administrator). Sign and date your opt out letter. You do not have to give a reason for opting out.

To assist you in submitting a request to opt out, a sample opt-out letter is available at www.fxclaimuk.com.

To be considered, your opt out letter must be received or postmarked by [insert date]. Once your opt out letter is received and processed, you will be sent an acknowledgement by email if you have provided an email address, or by post if not.

By opting out, you will not be able to receive a payment from this claim if money becomes available. However, you may be able to bring your own separate claim against the Defendants relating to the same issues.

12. I will NOT be a UK resident or my business/organisation will not be domiciled in the UK on [insert domicile date] and I want to participate in the claim.

If you, or the estate of a deceased person that you represent, will not be a UK resident, or your business/organisation is domiciled outside of the UK, as of [insert domicile date] (even if you were domiciled in the UK before that date), you will need to “opt in” to the classes if you want to be part of the claim and be eligible to receive a payment in the future.

Please visit www.fxclaimuk.com and complete an Opt-In Form on the website. On the form, you will be asked to provide your full name, postal address, email address and telephone number. If you are opting-in on behalf of the estate of a deceased person that you represent, you should include both your name and the name of the person whose estate you represent, and state the capacity in which you act as the representative of that person’s estate (i.e. executor or administrator).

To be considered, your opt-in request must be received by [insert date]. Once your opt in request is received and processed, we will send you an acknowledgement by email if you have provided an email address, or by post if not.

13. If I am NOT a UK resident or my business/organization will not be domiciled in the UK on [insert domicile date] and I do not opt-in by [insert date], can I claim payment?

Under the rules of the Tribunal, if you, or the estate of a deceased person that you represent, are not a UK resident, or if your business/organisation is domiciled outside of the UK, on [insert domicile date], you will not be automatically included in this collective action. Instead, you are required to submit a request to opt-in to the claim by [insert date] to be part of the classes. If you do not opt in by [insert date], and compensation later becomes available, the only way for you to be eligible to receive a payment is for the Tribunal to give you permission to opt in at a later time. There is no guarantee this permission will be given, so you must opt in by [insert date] if you want to be eligible to claim for payment.

GETTING MORE INFORMATION

14. How can I stay updated on the progress of the claim?

You can visit www.fxclaimuk.com and register to receive updates and any future notices via email as the claim progresses. If compensation becomes available, you will be contacted with information on how to claim your share.

15. How can I get more information?

This notice summarises the Order made by the Tribunal. To read the full Order and see other information about the claim, visit www.fxclaimuk.com.