



**IN THE COMPETITION**  
**APPEAL TRIBUNAL**

Case: 1336/7/7/19

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

**PHILLIP EVANS**

Applicant/  
Proposed Class Representative

- v -

- (1) BARCLAYS BANK PLC
- (2) BARCLAYS CAPITAL INC.
- (3) BARCLAYS EXECUTION SERVICES LIMITED
- (4) BARCLAYS PLC
- (5) CITIBANK N.A.
- (6) CITIGROUP INC.
- (7) MUFG BANK, LTD
- (8) MITSUBISHI UFJ FINANCIAL GROUP, INC.
- (9) J.P. MORGAN EUROPE LIMITED
- (10) J.P. MORGAN LIMITED
- (11) JP MORGAN CHASE BANK, N.A.
- (12) JPMORGAN CHASE & CO
- (13) NATWEST MARKETS PLC
- (14) THE ROYAL BANK OF SCOTLAND GROUP PLC
- (15) UBS AG

Respondents/  
Proposed Defendants

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**ORDER**

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**UPON** reading the Proposed Class Representative's application filed on 11 December 2019 pursuant to Rule 31(2) of the Competition Appeal Tribunal Rules 2015 (the "Tribunal Rules") for permission to serve the collective proceedings claim form (and related documents) out of the jurisdiction on the Second, Sixth and Twelfth Proposed Defendants

**IT IS ORDERED THAT:**

1. The Proposed Class Representative be permitted to serve the Second, Sixth and Twelfth Proposed Defendants outside the jurisdiction.

2. This Order is without prejudice to the rights of the Second, Sixth and Twelfth Proposed Defendants to apply pursuant to Rule 34 of the Tribunal Rules to dispute the jurisdiction.

## REASONS

1. The claims which the Proposed Class Representative proposes to combine in collective proceedings are for damages for loss alleged to have been suffered by specified classes of persons who entered into one or more relevant foreign exchange transactions in the European Economic Area during the period from 18 December 2007 to 31 January 2013. There is a reasonable prospect of success in the substantive claims against the Second, Sixth and Twelfth Proposed Defendants in that the claims sought to be combined in collective proceedings are follow-on claims based on two settlement decisions of the European Commission of 16 May 2019 in case AT.40135 – FOREX (“FOREX – Essex Express” (the “EE Decision”) and “FOREX – Three Way Banana Split” (the “TWBS Decision”)), which have not been appealed. Each of the Proposed Defendants is an addressee of one or both of the decisions.
2. It appears likely that, as the Proposed Class Representative submits, the proceedings will be treated as taking place in England and Wales under Rule 18 of the Tribunal Rules.
3. The Proposed Class Representative is serving its collective proceedings claim form (and supporting documents) on the twelve other Proposed Defendants each of which is domiciled in the UK or has a UK Registered Office (the “UK Proposed Defendants”).
4. I am satisfied that there is between the Proposed Class Representative and the UK Proposed Defendants a real issue to try and that the Second, Sixth and Twelfth Proposed Defendants are necessary and proper parties to the follow-on claims being pursued against the UK Proposed Defendants in that:
  - (a) they are addressees of either the EE Decision or the TWBS Decision;
  - (b) they share, jointly and/or severally, liability with the other Proposed Defendants; and
  - (c) it would be burdensome and costly if the Applicant had to bring separate and additional proceedings against the Second, Sixth and Twelfth Proposed Defendants in the United States instead of bringing a single set of proceedings.

**The Honourable Mr Justice Marcus Smith**  
Chairman of the Competition Appeal Tribunal

Made: 17 December 2019  
Drawn: 17 December 2019