



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

Case No: 1436/5/7/22 (T)

BETWEEN:

**ALLIANZ GLOBAL INVESTORS GMBH AND OTHERS**

Claimants

- v -

- (1) DEUTSCHE BANK AG LONDON
- (2) DEUTSCHE BANK AG
- (6) GOLDMAN SACHS INTERNATIONAL
- (7) GOLDMAN SACHS INTERNATIONAL BANK
- (9) GOLDMAN SACHS GROUP UK LIMITED
- (10) GOLDMAN SACHS BANK USA
- (12) MORGAN STANLEY INTERNATIONAL LIMITED
- (14) MORGAN STANLEY & CO. INTERNATIONAL PLC
- (17) BANK OF AMERICA N.A.
- (18) BANK OF AMERICA MERRILL LYNCH INTERNATIONAL  
DESIGNATED ACTIVITY COMPANY
- (20) MERRILL LYNCH INTERNATIONAL
- (21) BNP PARIBAS S.A.
- (22) BNP PARIBAS LONDON BRANCH
- (23) BNP PARIBAS SECURITIES SERVICES SCA
- (24) SOCIÉTÉ GÉNÉRALE S.A.
- (25) STANDARD CHARTERED PLC
- (26) STANDARD CHARTERED BANK
- (27) ROYAL BANK OF CANADA

Defendants

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**CONSENT ORDER**

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**UPON** the Claimants' application for disclosure and subsequent use of disclosed documents dated 7 April 2022 (the "**Application**"), supported by the Third Witness Statement of Katherine Alice Vernon dated 7 April 2022 ("**Vernon 3**")

**AND UPON** the Claimants' claim against Barclays Bank plc and other defendants issued in the Commercial Court on 31 December 2018 under Case No. CL-2018-000840, and subsequently transferred by Order of the Honourable Mr Justice Butcher dated 15 December 2021 to the Competition Appeal Tribunal under Case 1430/5/7/22 (T) (the "**Original Proceedings**")

**AND UPON** the Order of United States District Judge Lorna G. Schofield in the United States District Court, Southern District of New York in Case No. 1:18-cv-10364 dated 27 April 2020 (the "**U.S. Protective Order**")

**AND UPON** the re-re-amended consent confidentiality ring Order of the Honourable Mr Justice Butcher in the Original Proceedings dated 17 November 2020 (the "**Confidentiality Ring Order in the Original Proceedings**")

**UPON** the case management Order of HHJ Pelling QC in the Original Proceedings dated 20 October 2021 (the "**Pelling Order**")

**UPON** the directions of Jacobs J for response and reply evidence in respect of the Application made by way of letter from the Competition Appeal Tribunal on 24 May 2022

**AND UPON** the parties having agreed the terms on which the Application may be withdrawn

**AND UPON** the Application having been withdrawn

**IT IS ORDERED BY CONSENT THAT:**

1. The Defendants shall procure that any defendant Disclosing Party under the U.S. Protective Order, to the extent they are a Non-Overlapping Party, as also defined in the U.S. Protective Order, gives permission, pursuant to Clauses 7.1 and 7.2 of the U.S. Protective Order, for the Claimants to use the Non-Overlapping Parties' Trading Records (as defined in page 2 of the exhibit to Vernon 3) in the Original Proceedings only for the purpose of preparing, filing and serving the FPIs (as defined in the Pelling Order) in the Original Proceedings, disclosing them to the extent required by the Pelling Order, and thereafter using any such disclosed Non-Overlapping Parties' Trading Records for the purposes of the Original Proceedings (the "**Trading Records Permission**"). The Non-Overlapping Parties' Trading Records remain "Confidential" or "Highly Confidential" (as the case may be) under the U.S. Protective Order and subject to all residual protections of the U.S. Protective Order, and the Trading Records Permission remains subject thereto.

2. The Defendants shall procure that the defendant Non-Overlapping Parties will grant the Claimants' members of the Inner Confidentiality Ring under the Confidentiality Ring Order in the Original Proceedings access to the Defendants' U.S. Discovery Material (as defined in the U.S. Protective Order) for the purpose only of identifying the Interbank Chat Documents (as defined in the U.S. Protective Order) (the "**New Defendant Interbank Chat Documents**") that:
  - (a) in respect of alleged Benchmark Manipulation (as defined in the Pelling Order), the Claimants will or reasonably expect to use to identify alleged "manipulation days" in the meaning of the Pelling Order;
  - (b) in respect of alleged Bid/ask Manipulation (as defined in the Pelling Order), fall within or are reasonably expected to fall within paragraph 7(b) of the Pelling Order;
  - (c) have been or will be incorporated into the Integrated Analysis (as defined in page 12 of the exhibit to Vernon 3) and are therefore relied upon for the FPIs; and/or
  - (d) the Claimants will be required to disclose pursuant to the Pelling Order (the "**Access**").
  
3. For the avoidance of doubt:
  - (a) the Trading Records Permission and the Access do not extend to permission to use any documents that are not either Non-Overlapping Parties' Trading Records or New Defendant Interbank Chat Documents that fall within paragraph 1 or sub paragraphs 2(a)-(d) above.
  - (b) the Trading Records Permission and the Access do not permit the Claimants' members of the Inner Confidentiality Ring to create any work product in relation to New Defendant's US Discovery Material other than as reasonably necessary for the purposes of paragraph 2 above and/or 4 below.

4. The Claimants' English Outside Counsel (as defined in the U.S. Protective Order) will identify Trading Records and New Defendant Interbank Chat Documents that fall within paragraph 1 or sub paragraphs 2(a)-(d) above to the Defendants by way of a written list or lists, setting out the Bates numbers of each such New Defendant Interbank Chat Documents provided in the U.S. Discovery Material (the "List").
5. Upon receipt of the List, which will be provided at the time of filing and serving the FPIs, the defendant Non-Overlapping Parties are deemed to give the Claimants and their English Outside Counsel permission to use and disclose the New Defendant Interbank Chat Documents identified in the List in the Original Proceedings for, and only to the extent consistent with, the purpose of preparing, filing and serving the FPIs, disclosing them to the extent required by the Pelling Order, and thereafter using any such disclosed New Defendant Interbank Chat Documents for the purposes of the Original Proceedings (the "Interbank Chat Documents Permission", together with the Trading Records Permission, the "Permission"). The New Defendant Interbank Chat Documents disclosed remain "Confidential" or "Highly Confidential" (as the case may be) under the U.S. Protective Order and subject to all residual protections of the U.S. Protective Order and the Interbank Chat Documents Permission remains subject thereto.
6. Subject to the ongoing Permission, the Access commences on the date of the parties' entering into this agreement and will expire on 29 July 2022, or the date upon which the Claimants file and serve the FPIs, whichever is later.
7. Upon the expiration of the Access, the Claimants shall confirm in writing to the Defendants that the Claimants' members of the Inner Confidentiality Ring no longer have access (subject to the ongoing Permission) to any of the New Defendants' U.S. Discovery Material save as to any documents disclosed in the Original Proceedings in accordance with the Pelling Order.
8. The Claimants will provide the Defendants with a copy of the FPIs, and will not object to the Defendants' receipt of any documents that respond to the FPIs.

9. The FPIs (once produced and served), any documents disclosed pursuant to the Permission, and any documents subsequently produced in the Original Proceedings that refer to the substance of the FPIs, will be designated as “Inner Confidentiality Ring Information” under the Confidentiality Ring Order in the Original Proceedings unless otherwise agreed with the Defendants and the Claimants will seek to agree with the defendants in the Original Proceedings and the Defendants an equivalent confidentiality regime that will afford the Defendants similar rights under the terms of the Confidentiality Ring Order in the Original Proceedings as have been afforded to the defendants in the Original Proceedings in the confidentiality ring order in these proceedings, including, for the avoidance of doubt, that such documents could only be de-designated (or re-designated) with the Defendants’ prior written consent (and the Claimants waive any right to argue against such rights). Pending the agreement of an equivalent confidentiality ring order in the Original Proceedings to grant such rights, the Claimants agree not to exercise any rights or take any steps to change the designation of documents that are subject to the Permission, which designation shall be equivalent to Inner Confidentiality Ring Information. Thus, the documents identified in the List will be subject to the Confidentiality Ring Order to the extent they are used to plead, serve and respond to the FPIs in those proceedings.
10. Each of the Claimants’ Inner Confidentiality Ring members who wish to access or use the New Defendants’ U.S. Discovery Material as permitted under and for the purposes of this agreement, and each English Outside Counsel, English Experts, and Professional Vendors (as defined in the U.S. Protective Order), and any necessary representatives of Elsinu who wish subsequently to access or use the Trading Records or the New Defendant Interbank Chat Documents disclosed in or for the purpose of the Original English Proceedings, will each sign a copy of the Acknowledgment and Agreement to be Bound by Stipulation and Order of Confidentiality attached to the U.S. Protective Order, to the extent they have not already done so.
11. The Claimants will procure any and all necessary waivers in respect of bank secrecy, data privacy law or similar confidentiality protections (equivalent to

those given in the U.S. Proceedings) from entities that are plaintiffs in the U.S. Proceedings but not claimants in the Original Proceedings.

12. The Claimants agree that this arrangement arising out of the Claimants' pleading obligations in the Original Proceedings is limited to the above Trading Records Permission, Access and Interbank Chat Documents Permission and is without prejudice to any disclosure exercise in these proceedings. In particular, the Claimants confirm that (i) they will not use any of the Non-Overlapping Parties' U.S. Discovery Material made available pursuant to this agreement for any purpose whatsoever, other than as strictly permitted under this agreement, including but not limited to seeking early inter partes disclosure in these proceedings, and (ii) they will not rely upon the mere fact that they have had, under this arrangement, the ability to access the Defendants' U.S. Discovery Material to later argue for the relevance of such U.S. Discovery Material in the course of the resolution of the scope of the disclosure in these proceedings (without prejudice to the Claimants' right to rely on any and all other arguments as to why such material is in fact relevant to the proceedings).
13. The Claimants agree that this arrangement is without prejudice to the fact that the Defendants are not able to take a position as to whether or not any of the U.S. Discovery Material is in fact required for the FPIs.
14. For the avoidance of doubt, this Consent Order is not intended to give rise to any other disclosure obligations
15. Costs in the case.