

A high-angle photograph of the London skyline at dusk. The sky is a clear, deep blue. In the center, the Gherkin (30 St Mary Axe) is illuminated with a warm, golden light. To its right, The Shard stands tall, its glass facade reflecting the sky. Other skyscrapers and older buildings are visible in the foreground and background, creating a dense urban landscape.

**FX CLAIM** UK

**Foreign Exchange  
Collective Action  
Claim Information**



## Introduction

Phillip Evans, former Inquiry Chair at the Competition and Markets Authority, has applied to bring a collective action – FX Claim UK - in the UK's Competition Appeal Tribunal against certain entities in the Barclays, Citigroup, JPMorgan, MUFG Bank (formerly Bank of Tokyo-Mitsubishi), RBS/NatWest, UBS, HSBC and Credit Suisse banking groups.

### **Misconduct**

The European Commission found that these entities (as the Banks) participated in one, two or all three of three foreign exchange (FX) spot trading cartels between December 2007 and January 2013 in breach of EU competition law.

Traders of these Banks were found to have exchanged commercially sensitive information through private, online chat rooms. The traders also occasionally coordinated their trading activities. As a result of this misconduct, businesses, organisations and individuals may have suffered loss.

### **Affected?**

If you or your organisation entered into FX spot and/or outright forward transactions in this period, you may be eligible to participate in the proposed collective action and benefit from any future award of damages.

The collective action seeks to recover damages on behalf of two groups of persons (classes) to compensate those affected by the FX spot trading cartels.





“ The European Commission fined these banks more than €1 billion for their FX wrongdoing. But that should not be where this ends. The fines do not go to those affected by the cartels. Through this action, we want to hold the banks accountable for their actions and secure compensation for affected customers. ”



Phillip Evans

As a result of the cartels, organisations and individuals may have paid more when buying G10 currencies, or received less when selling G10 currencies, in a spot or outright forward transaction.

## What happened?

The Commission found that the Banks each participated in one or more FX spot trading cartels in breach of EU competition law. On 16 May 2019, the European Commission adopted two Decisions against the Barclays, Citigroup, JP Morgan, MUFG Bank, RBS and UBS banking groups for their participation in two foreign exchange trading cartels. On 2 December 2021, the Commission adopted two further decisions against the Barclays, RBS, UBS and HSBC banking groups and the Credit Suisse banking group finding that the banks participated in a further foreign spot trading cartel.

The cartels concerned FX spot trading in the G10 currencies\* and covered the whole of the EEA. The total period covered by the cartels is 18 December 2007 to 31 January 2013 inclusive.

The Commission found that certain FX traders employed by the Banks exchanged current or forward-looking commercially sensitive information through various private, online chatrooms.

The commercially sensitive information exchanged in the chatrooms related to:

- the open risk positions of the participating traders (i.e. the currency they needed to sell or buy in order to convert their portfolios into their bank's currency);
- information relating to customers' outstanding orders (i.e. the amount that a customer wanted to exchange and the specific currencies involved, as well as indications on which client was involved in a transaction);
- information on bid-ask spreads (i.e. prices); and
- other details of current or planned trading activities.

The Commission found that the commercially sensitive information was shared on an extensive and recurrent basis and that, in addition, the traders occasionally coordinated their trading activities.

\* The G10 currencies are the Euro (EUR); British Pound (GBP); Japanese Yen (JPY); Swiss Franc (CHF); US Dollar (USD); Canadian Dollar (CAD); New Zealand Dollar (NZD); Australian Dollar (AUD); Danish Krone (DKK); Swedish Krona (SEK); and Norwegian Krone (NOK).

To learn more about the European Commission's findings and to download a copy of the European Commission's Press Releases, along with the non-confidential versions of the Decision, please visit [FX Claim UK](#).



“ Companies and people depend on banks to exchange money to carry out transactions in foreign countries. Foreign exchange spot trading activities are one of the largest markets in the world, worth billions of euros every day...

...The behaviour of these banks undermined the integrity of the sector at the expense of the European economy and consumers.”

Margrethe Vestager -  
European Commissioner for Competition



## The Claim and the Classes

Mr Evans has applied to bring a claim on behalf of organisations and individuals which were affected by the cartels identified by the European Commission. It will be argued that these organisations and individuals paid more when buying G10 currencies, or received less when selling G10 currencies, in a spot or outright forward transaction, as a result of the cartels.

### Who can participate in the claim?

You may be covered by the claim if you or your organisation entered into:

- one or more FX spot transactions and/or FX outright forward transactions;
- to exchange one G10 currency for another G10 currency;
- with any of the Banks and/or certain other financial institutions;
- in the European Economic Area between 18 December 2007 and 31 January 2013.

### The Classes

The claim seeks damages on behalf of two classes, Class A and Class B.

**Class A** comprises persons who entered certain FX transactions with one of the Banks during the period in which that Bank participated in at least one of the cartels.

**Class B** includes persons that may have been affected by the impact that the cartels had on pricing in the wider FX market. It therefore comprises persons who entered into FX transactions with certain other financial institutions (which were not involved in the cartels) or one of the Banks, during the period in which that Bank was not involved in the cartels.

The list of other financial institutions is included in the [Class Definition](#).





### Exclusions

A full description of the classes, called the Class Definition, is available on [FX Claim UK](#). Certain persons and certain transactions do not fall within the claim. Please read the Class Definition carefully to identify whether you or your organisation may fall within one or both of the classes.

For full information on the claim and its classes, please consult the detailed [claim documentation](#), also available for download on the FX Claim UK website.

“ The manipulation of the FX market has affected thousands of businesses and individuals in the UK and around the world. We are appealing to everyone who thinks they may be affected to register their interest on [fxclaimuk.com](#). ”

Anthony Maton -  
Managing Partner, Hausfeld & Co LLP

## What is a collective action?

A collective action (sometimes called collective proceedings) involves a claim brought by a class representative on behalf of a group of persons who are alleged to have suffered loss as a result of a breach of competition law. The group is known as a “class” and all those within the group are “class members”.

In the UK, collective proceedings concerning competition law are heard in the Competition Appeal Tribunal, a specialist court based in London which hears and decides cases involving competition or economic regulatory issues.

Collective proceedings can be “opt-in” (where each potential class member must sign up in order to be part of the claim) or “opt-out” (where each person that falls within the class or classes is automatically included in the proceedings unless they actively choose to opt out).

### **A Collective Proceedings Order**

A person wishing to bring collective proceedings as a class representative must first obtain permission from the Competition Appeal Tribunal for the claim to proceed.

This is known as obtaining a Collective Proceedings Order (or CPO). The Competition Appeal Tribunal will decide whether to grant a CPO by considering whether: (a) the class representative is suitable to bring the claim; and (b) the claims are eligible to be included in collective proceedings.

### **Trial or Settlement**

If a CPO is made, the claim will proceed to trial. If the claim is successful at trial or a settlement is reached, any damages are distributed amongst the class members using a distribution method approved by the Competition Appeal Tribunal.

*Mr Evans believes that bringing a collective action is an efficient way of recovering compensation on behalf of the classes of persons affected by the cartels.*



## Who is bringing the claim?

### **Phillip Evans – Proposed Class Representative**

Mr Evans has spent almost 20 years working on behalf of victims of anti-competitive conduct. He has been an Inquiry Chair at the Competition and Markets Authority and a Panel Member at the Competition Commission. He is currently a Special Adviser for Competition, Consumer and Trade Policy at FIPRA International, an independent European public affairs consultancy firm. Mr Evans also spent close to a decade at Which?, working hard to promote fair markets and competition policy for the benefit of consumers in a range of sectors, including financial services.

He has taught at several universities and has written on a wide range of topics such as trade and competition policy, the history and functioning of markets and corporate responsibility.

With such a breadth of knowledge and experience, Mr Evans is well placed to bring this claim on behalf of class members to compensate those affected by the FX spot trading cartels.

### **Experts**

Mr Evans has also instructed experts, including academics, economists and

FX market experts. These experts will be responsible for providing evidence in relation to the impact of the cartels on the FX market and the resulting losses suffered.

### **Consultative Panel**

Mr Evans is supported by a consultative panel chaired by Lord Carlile of Berriew KC, a crossbench member of the House of Lords who was a part time judge for 28 years in the High Court and a former member of the Competition Appeal Tribunal.

### **Specialist lawyers**

Mr Evans has instructed Hausfeld & Co LLP to bring the claim on his and the classes' behalf. Hausfeld played a pioneering role in the development of private enforcement of competition law in Europe and has extensive experience pursuing collective actions on behalf of consumers and organisations.

Hausfeld's US affiliate is co-lead counsel in a class action against sixteen banks for manipulation of the FX market in the US.

Mr Evans has also instructed a team of barristers at Brick Court Chambers, who have extensive experience in the field of competition law claims for damages.

## Key information

### **I am covered by the class definition and wish to participate.**

If you or your organisation *are not domiciled in the UK* and fall within one or both of the classes, you will be required to opt in to the claim if you wish to participate.

If you or your organisation *are domiciled in the UK* and fall within one or both of the classes, you will automatically be included in the claim unless you opt out.

The process for opting-out of the claim and opting-in to the claim will be published on [FX Claim UK](#) in the event that the Competition Appeal Tribunal grants permission for the claim to proceed.

### **What should I do now?**

If you [register](#) on the website, we can update you on the progress of the claim.

You should keep any records of FX transactions you or your organisation have entered into between 18 December 2007 and 31 January 2013 to assist with claiming your share of any damages or settlement sum that might be awarded in favour of the classes.

### **How much money will I receive?**

If the claim is successful and damages are awarded, or a settlement is agreed with the Banks, the damages or settlement sum will be divided between the members of the classes. The amount that you receive may depend upon the volume of FX trading carried out by you or your organisation.

### **What will it cost to participate?**

There is no cost to you to participate in the claim. Mr Evans is working with a specialist litigation funder, Bench Walk Advisors, to bring the claim. In return for providing funding, the funder will be paid a fee at the conclusion of the claim, *after* any award of damages is distributed to class members. The fee is payable out of the undistributed proceeds, meaning this fee is not payable out of any sums that would otherwise be paid to class members.

### **What are the risks of participating in the claim?**

There should be no risk. You will not be liable to pay any of the Banks' costs in the event the claim is unsuccessful. Under the collective action regime, Mr Evans is responsible for those costs and he has put in place a comprehensive funding and insurance package to fund the costs of the action.

## Register your interest

### **If I participate, how much time and resource will I need to devote to the claim?**

In a collective action, the class representative manages the claim on behalf of all class members.

If you are domiciled in the UK, you will not need to take any active steps unless and until the claim is resolved and the proceeds of any settlement or judgment are distributed.

If you are not domiciled in the UK, you will need to opt-in to the claim if you wish to participate, and you may be required to provide evidence of your FX spot transactions and/or outright forward transactions in order to opt-in. Further details will be provided on this as the claim progresses.

### **Is registration confidential?**

We intend to keep the identities of those who register their interest on [fxclaimuk.com](http://fxclaimuk.com) confidential. They will only be shared with the class representative and those he has

instructed, including his legal team and expert advisors, as is necessary to pursue the claim.

It may be necessary to share the number of persons that have registered their interest on the website, and their location(s), with the Competition Appeal Tribunal as part of the application for a Collective Proceedings Order.

In the unlikely event that you register and the Competition Appeal Tribunal orders the identities of those who register their interest to be disclosed to the Banks, we will endeavour to contact you to give you an opportunity to de-register before such disclosure is made.

### **Where can I find further information?**

For further information, please visit [FX Claim UK](http://FXClaimUK).

The website contains frequently asked questions and their answers and copies of key documents filed at the Competition Appeal Tribunal in support of the claim.

[FX Claim UK](http://FXClaimUK) will be continuously updated as the claim progresses. Please register on the website to receive updates and future notices via email.



# FX CLAIM UK

For further information, please visit the FX Claim UK website:

[www.fxclaimuk.com](http://www.fxclaimuk.com)

The website contains responses to a number of frequently asked questions about the claim, as well as copies of key documents filed at the Competition Appeal Tribunal in support of the claim.

This website will also be updated with further information as the claim progresses. We also recommend that you register your details on the website to receive updates and any future notices via email.

For general enquiries, please contact:  
[enquiries@fxclaimuk.com](mailto:enquiries@fxclaimuk.com)

For media enquiries please contact:  
Matt Baldwin, Coast Communications  
[+44 7930 439739](tel:+447930439739)  
[matt@coastcommunications.co.uk](mailto:matt@coastcommunications.co.uk)

Follow us

