

Final Report of the Hearing Officer ⁽¹⁾**AT.40135 – Forex-Essex Express****(Text with EEA relevance)**

(2020/C 219/06)

The draft decision, addressed to UBS ⁽²⁾ RBS ⁽³⁾, Barclays ⁽⁴⁾ and BOTM ⁽⁵⁾ (collectively ‘the Parties’), concerns a single and continuous infringement of Article 101 of the TFEU and Article 53 of the EEA Agreement in relation to FX spot trading of G10 currencies between December 2009 and July 2012. The draft decision finds that the Parties participated in an underlying understanding to exchange certain current or forward looking commercially sensitive information and to occasionally coordinate their trading activities. The conduct in question took place within two Bloomberg chatrooms called ‘Essex Express ‘n Jimmy’ and ‘Grumpy Semi old Men’.

On 27 October 2016, the Commission initiated proceedings pursuant to Article 11(6) of Council Regulation (EC) No 1/2003 ⁽⁶⁾ and Article 2(1) of Commission Regulation (EC) No 773/2004 ⁽⁷⁾ against the Parties.

Following settlement discussions ⁽⁸⁾ and settlement submissions ⁽⁹⁾ in accordance with Article 10a(2) of Regulation (EC) No 773/2004, on 24 July 2018 the Commission adopted a statement of objections (‘SO’) addressed to the Parties.

In their respective replies to the SO, the Parties confirmed pursuant to Article 10a(3) of Regulation (EC) No 773/2004 that the SO reflected the contents of their settlement submissions and that they therefore remained committed to following the settlement procedure.

Pursuant to Article 16 of Decision 2011/695/EU, I have examined whether the draft decision deals only with objections in respect of which the Parties have been afforded the opportunity of making known their views. I conclude that it does so.

In view of the above, and taking into account that the Parties have not addressed any requests or complaints to me ⁽¹⁰⁾, I consider that the effective exercise of the procedural rights of the Parties to the proceedings in this case has been respected.

Brussels, 7 May 2019.

Wouter WILS

⁽¹⁾ Pursuant to Articles 16 and 17 of Decision 2011/695/EU of the President of the European Commission of 13 October 2011 on the function and terms of reference of the hearing officer in certain competition proceedings (OJ L 275, 20.10.2011, p. 29).

⁽²⁾ UBS AG.

⁽³⁾ The Royal Bank of Scotland Group plc and NatWest Markets plc.

⁽⁴⁾ Barclays plc, Barclays Services Limited, Barclays Capital Inc. and Barclays Bank plc.

⁽⁵⁾ Mitsubishi UFJ Financial Group Inc. and MUFG Bank, Ltd.

⁽⁶⁾ Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty (OJ L 1, 4.1.2003, p. 1).

⁽⁷⁾ Commission Regulation (EC) No 773/2004 of 7 April 2004 relating to the conduct of proceedings by the Commission pursuant to Articles 81 and 82 of the EC Treaty (OJ L 123, 27.4.2004, p. 18).

⁽⁸⁾ The settlement meetings took place between November 2016 and February 2018.

⁽⁹⁾ The Parties submitted their formal requests to settle between [...] and [...].

⁽¹⁰⁾ Under Article 15(2) of Decision 2011/695/EU, parties to the proceedings in cartel cases which engage in settlement discussions pursuant to Article 10a of Regulation (EC) No 773/2004, may call upon the hearing officer at any stage during the settlement procedure in order to ensure the effective exercise of their procedural rights. See also paragraph 18 of Commission Notice 2008/C 167/01 on the conduct of settlement procedures in view of the adoption of Decisions pursuant to Article 7 and Article 23 of Council Regulation (EC) No 1/2003 in cartel cases (OJ C 167, 2.7.2008, p. 1).