

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF CONNECTICUT

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 UNITED STATES OF AMERICA : No. 3:15CR-77(SRU)
 : No. 3:15CR-78(SRU)
 : No. 3:15CR-79(SRU)
 vs. : No. 3:15CR-80(SRU)
 :
 : 915 Lafayette Blvd
 BARCLAYS PLC; CITICORP; : Bridgeport, Connecticut
 JP MORGAN CHASE & CO.; THE :
 ROYAL BANK OF SCOTLAND PLC : May 20, 2015
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WAIVERS AND PLEAS

B E F O R E:

THE HONORABLE STEFAN R. UNDERHILL, U. S. D. J.

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1 (11:00 O'CLOCK, A. M.)

2 THE COURT: Good morning. We're here in four
3 related criminal cases which have not yet been assigned
4 docket numbers, although that process has begun.

5 I'd like to start with the identification of
6 those present. So if we could start with counsel for the
7 government, please, if you could identify yourselves as
8 well as any representatives who are present, that would be
9 helpful.

10 MR. MUOIO: Thank you, Your Honor. Joseph
11 Muoio, Trial Attorney with the United States Department of
12 Justice, Antitrust Division, in the New York office.

13 Seated with me at counsel table are fellow trial
14 attorneys from the Antitrust Division, Brian Bughman, Eric
15 Schleef and Carrie Syme. And we're also accompanied by
16 our paralegal, Sharon Robinson.

17 THE COURT: Very good, thank you. And let's do
18 this in alphabetical order, so counsel for Barclays.

19 MR. ENGLISH: Good morning, Your Honor. Michael
20 English from Finn Dixon & Herling.

21 With me is Karen Patton Seymour of the law firm
22 of Sullivan & Cromwell.

23 MS. SEYMOUR: Good morning, Your Honor.

24 MR. ENGLISH: And Matthew Fitzwater of Barclays
25 PLC.

1 THE COURT: Very good. Thank you.

2 MR. ENGLISH: Your Honor, I prepared a written
3 motion for Ms. Seymour pursuant to Rule 83.1. I can
4 assure Your Honor that Ms. Seymour meets the requirements
5 for admission pro hac vice and I ask that Your Honor admit
6 her for this proceeding. We will follow up with a written
7 motion as soon as the proceeding ends.

8 THE COURT: Very good. That's granted. Thank
9 you.

10 MR. DASSIN: Thank you, Your Honor. Lev Dassin,
11 and from the far left, Jon Kolodner from Cleary Gottlieb,
12 and Rohan Weerasinghe, General Counsel of Citicorp.

13 THE COURT: Thank you. Very good.

14 MR. RAABE: Your Honor, Craig Raabe from
15 Robinson & Cole, along with John Carroll, Patrick
16 Fitzgerald from Skadden Arps. And Stephen Cutler is the
17 company representative.

18 Like Mr. English, I have written motions for
19 visiting attorneys. I would ask Mr. Carroll and
20 Mr. Fitzpatrick be admitted for that purpose. I'll file a
21 motion later.

22 THE COURT: Yes, that motion is granted. And
23 just to be clear, you're with JP Morgan Chase?

24 MR. RAABE: Yes, JP Morgan Chase, yes.

25 THE COURT: All right, thank you.

1 MR. WENNER: Good morning, Your Honor. Dan
2 Wenner from Day Pitney. With me is Greg Andres from Davis
3 Polk as well as Neil MacBride from Davis Polk, and James
4 Esposito from the Royal Bank of Scotland, PLC.

5 And I would ask Mr. MacBride and Andres be
6 admitted pro hac vice and we'll file the appropriate
7 motions this afternoon.

8 THE COURT: Yes, that motion is granted. Thank
9 you.

10 All right. Let me begin by thanking everyone
11 for agreeing to do this, in effect, in a joint session. I
12 think it will be much more efficient, and I think by the
13 third or fourth of these I would be kind of in the role of
14 the protagonist of Ground Hog Day later this afternoon.
15 So, it's good to be here together.

16 I think there are substantial similarities among
17 the papers for the four cases and I think we can do this
18 jointly as a result of that.

19 I do want to make sure that everybody is clear,
20 especially government's counsel, when it comes to
21 identifying any distinctions; for example, dates of
22 participation and the like, goal and so forth, that those
23 distinctions be made on a defendant by defendant basis so
24 that we don't have the sense that this is kind of a common
25 proceeding, notwithstanding the nature of the claims here.

1 So, if each of you could be sure to draw those
2 distinctions out on the record, I would be appreciative of
3 that.

4 The way I see us doing this is, much of my role
5 today is advising of certain rights that would be affected
6 by decisions made to plead guilty to any of the
7 informations, to explain certain consequences and to
8 receive acknowledgments of understanding and/or waiver of
9 rights.

10 And so, in essence what I'm going to do whenever
11 I can is to state those rights on the record and then turn
12 to each of the four defendants and ask the appropriate
13 representative, either counsel or a party, to make clear
14 that they understand and acknowledge what I've just said.

15 So, let me begin with various rights that all of
16 the defendants have. Corporations have somewhat different
17 rights than individuals and so I'm used to talking about
18 Constitutional rights to remain silent. I don't think
19 that necessarily applies to a corporation but I will tell
20 you you have a practical right not to have to say
21 anything, or even if that's not a constitutional right.

22 All of the corporations have a right, should
23 they begin speaking, to stop speaking and obviously to
24 speak with counsel before making any kind of statement
25 here in court.

1 Everything that is said in court will be taken
2 down for the record and could be used against any of these
3 entities in this or some other proceeding.

4 Each of the corporations has a right to have
5 counsel and to have counsel appointed for them if they
6 cannot afford that right. That doesn't seem to be a
7 problem today, but I will note that for the record.

8 And I always like to advise defendants that
9 they, there's something called the attorney/client
10 privilege. I'm sure all of you in this room are aware of
11 that. Quite simply, what that means is you can feel very
12 comfortable, the client can feel very comfortable speaking
13 with counsel confidentially and obtaining whatever advice
14 they need without fear that that advice or those
15 communications will be disclosed. So, all of the entities
16 here certainly have a right to the protections of the
17 attorney/client privilege.

18 As a footnote, I would note these microphones
19 are fairly sensitive and, as a result, if you wish to
20 exercise your rights under the attorney/client privilege
21 and have a confidential communication, you may either want
22 to moot them or pull back from the table a bit so you're
23 not picked up, your whispers are not picked up by the
24 microphones.

25 Let me again, in turn, ask each of our sets of

1 defendants whether the rights that I've just described
2 are -- you're fully understanding of those rights.

3 MR. FITZWATER: Yes, Your Honor.

4 MR. WEERASINGHE: Yes, Your Honor.

5 MR. CUTLER: Yes, Your Honor.

6 MR. ESPOSITO: Yes, Your Honor.

7 THE COURT: All right, excellent. Thank you.

8 Now, because we're here in connection with
9 corporations, I also want to have each of the corporate
10 representatives acknowledge on the record that they are
11 fully authorized to speak on behalf of the corporation, to
12 waive rights that the corporation possesses in connection
13 with these proceedings and that they have in fact had the
14 necessary internal communications and decisions made to
15 permit them to speak on behalf of each of the corporations
16 here in court today. Is that correct?

17 MR. FITZWATER: Yes, Your Honor.

18 MR. WEERASINGHE: Yes, Your Honor.

19 MR. CUTLER: Yes, Your Honor.

20 MR. ESPOSITO: Yes, Your Honor.

21 THE COURT: Okay. The first thing I want to do
22 is talk about the decision to proceed by way of
23 information rather than indictment. Again, with corporate
24 entities, it's a slightly different standard than we
25 usually do, but I will say this. There are really only

1 two ways in which serious charges can be brought in the
2 U. S. courts. One is by way of what is called an
3 indictment by a grand jury, and the other is by what's
4 called an information, which necessarily implies or
5 requires in some circumstances the waiver of a right to
6 indictment.

7 I don't believe that corporations have a
8 constitutional right to indictment but they have a
9 practical right to indictment. And this case, these cases
10 will not proceed unless there is a waiver of the right to
11 require the government to seek indictments before a grand
12 jury.

13 In that connection, I just want to very briefly
14 note that a grand jury is a group of citizens, between 16
15 and 23 in number, that they hear evidence presented only
16 by the government and not by evidence presented by defense
17 counsel, and they, the grand jury then decides from that
18 evidence whether there is sufficient probable cause to
19 believe that a particular entity has committed a crime,
20 and, if so, and if at least 12 of those grand jurors vote
21 to return an indictment, then a charge can be brought.

22 Unless 12 or more of these grand jurors vote to
23 return an indictment, an indictment cannot be brought and,
24 therefore, unless there is a waiver of indictment and the
25 consent to having charges brought by way of what's called

1 an information, then those charges will not be brought,
2 quite simply.

3 An information is a document very much like an
4 indictment. The very important difference is that an
5 information is a document that has been prepared by a
6 prosecutor and has not been reviewed by a grand jury. And
7 if this case proceeds by way of the filing of the
8 informations against these entities, no grand jury will
9 ever hear evidence against any of them and no grand jury
10 will ever be asked to make a decision whether to indict or
11 not to indict these entities.

12 Instead, the case will simply proceed as if the
13 entities had been indicted because the informations would
14 be the equivalent of an indictment. Again, let me just
15 ask each of the corporate representatives if they
16 understand what a grand jury is, the right to require the
17 government to seek to bring these charges by way of the
18 return of an indictment by a grand jury, and whether each
19 corporation wishes to waive those rights and proceed by
20 way of the filing of an information.

21 MR. FITZWATER: Yes, Your Honor.

22 MR. WEERASINGHE: Yes, Your Honor.

23 MR. CUTLER: Yes, Your Honor.

24 MR. ESPOSITO: Yes, Your Honor.

25 THE COURT: All right. And let me just pause.

1 Do any of the corporate representatives have any questions
2 about what's been raised so far?

3 MR. FITZWATER: No, Your Honor.

4 THE COURT: All right, very good. If the
5 government hasn't already done so, this would be a good
6 time to file the original informations.

7 (Hands Clerk)

8 THE COURT: Very good, thank you. Okay. The
9 next thing I want to do is make sure that each of the
10 corporate representatives has received, reviewed and had a
11 chance to discuss with counsel the document called an
12 information in your respective cases.

13 MR. FITZWATER: Yes, Your Honor.

14 MR. WEERASINGHE: Yes, Your Honor.

15 MR. CUTLER: I have, Your Honor.

16 MR. ESPOSITO: I have, Your Honor.

17 THE COURT: Hopefully then all of you
18 understand, although there are some distinctions that I
19 may ask Mr. Muoio to review, the essence of each of these
20 informations is that the respective defendants are charged
21 with a violation of Section 1 of the Sherman Act by way of
22 conspiracy; specifically charged with a conspiracy to
23 restrain trade by manipulating the market in foreign
24 exchange currency trade, specifically the FX Spot Market.
25 Is that, Mr. Muoio, is that a fair summary?

1 MR. MUOIO: Specifically in the Euro/Dollar
2 currency trade, Your Honor.

3 THE COURT: All right, very good.

4 Again, do each of the corporate defendants
5 understand the general nature of the charge set forth in
6 the respective informations?

7 MR. FITZWATER: Yes, Your Honor.

8 MR. WEERASINGHE: Yes, I do, Your Honor.

9 MR. CUTLER: Yes, Your Honor.

10 MR. ESPOSITO: I do, Your Honor.

11 THE COURT: Do any of you have any questions
12 about the charges that are set forth in the respective
13 informations?

14 MR. FITZWATER: No.

15 MR. WEERASINGHE: No.

16 MR. CUTLER: No.

17 MR. ESPOSITO: No.

18 THE COURT: I want to be sure that each
19 corporate representative understands the maximum penalties
20 that would apply and potentially be imposed upon your
21 respective corporations in the event that there is a
22 guilty plea entered with respect to the information, the
23 charge in the information.

24 First off, with respect to each of these cases,
25 there -- the principal punishment is a period of probation

1 of between one and five years, along with the possibility
2 of a fine. The maximum fine in these situations are the
3 greater of the following: 1 million-dollars, or twice the
4 gain obtained as a result of the wrongful conduct, or
5 twice the loss suffered by the victims of the wrongful
6 conduct.

7 There is the possibility of restitution,
8 although, as I'm sure you're aware, there has been an
9 agreement that restitution would not be paid in this case,
10 these cases, and each corporation would be required, if
11 found guilty, to pay a special assessment of \$400 on the
12 count of conviction.

13 MR. MUOIO: Your Honor, one correction?

14 THE COURT: Yes.

15 MR. MUOIO: The maximum penalty is the greater
16 of 100 million-dollars or twice the gain or loss.

17 THE COURT: Okay. Those zeros are important,
18 aren't they? Thank you very much. The number seemed
19 small to me.

20 All right. With that correction, do each of the
21 corporate representatives understand the maximum
22 penalties?

23 MR. FITZWATER: Yes, Your Honor.

24 MR. WEERASINGHE: Yes, I do, Your Honor.

25 MR. CUTLER: Yes, Your Honor.

1 MR. ESPOSITO: Yes, Your Honor.

2 THE COURT: Very good. Thank you.

3 All right. I want to now explain for each of
4 you the various rights that you'd be giving up in the
5 event that your company decides to plead guilty to the
6 charge in your respective information.

7 And the first thing I want to do is make sure
8 that each corporate representative understands that your
9 company is not required to plead guilty even if it
10 committed the crime that's been charged against it. You
11 have the right, even if you are actually guilty, to plead
12 not guilty and, by doing so, you place on the government
13 the burden of taking this case to trial and proving to an
14 unanimous jury of 12 that you've been proven guilty to a
15 standard of beyond a reasonable doubt.

16 And the way that you impose that burden on the
17 government is simply by saying not guilty when you are
18 asked how it is that you plead. If you plead not guilty,
19 that is if your corporation pleads not guilty -- I'll
20 probably say "you" frequently and when I'm doing that, I'm
21 not talking about you individually but, rather, you as
22 corporate representatives and the "you" refers to the
23 corporations that you represent -- but if the corporations
24 plead guilty, they are entitled to a speedy public trial
25 before a jury with the assistance of counsel in defending

1 against the charges in the information.

2 At trial, each of these entities would be
3 presumed innocent and the government would have to
4 overcome that presumption using competent evidence and
5 would be required to prove the guilt of each of these
6 corporations separately and to a standard of beyond a
7 reasonable doubt. None of the corporations would be
8 required to prove that they are innocent.

9 And if the government were to fail to prove the
10 guilt of a particular corporation beyond a reasonable
11 doubt, then the jury would have a legal duty to find that
12 corporation not guilty.

13 During the course of a trial, witnesses for the
14 government would be required to come here into open court
15 and to testify under oath and in the presence of your
16 representatives. You would have, through your counsel you
17 would have the right to confront those witnesses, that is,
18 you could ask them questions either to show they are not
19 telling the truth or bring out information that might be
20 helpful to your defense.

21 You'd have the right to object to evidence
22 offered by the government. And you'd have the right to
23 present evidence in defense of these charges and that
24 evidence can include the testimony of witnesses.

25 Obviously representatives from the corporations

1 would be allowed to testify at such a trial, and they
2 would also have the power and ability to compel the
3 attendance of reluctant witnesses. So if there are
4 witnesses who don't want to come to trial for whatever
5 reason and they are within the subpoena power of the
6 Court, each of these entities would have the authority and
7 ability to compel their attendance by serving them with a
8 subpoena, which is quite simply a form of court order, to
9 come to court and give testimony.

10 Do each of you understand the rights that I've
11 just described?

12 MR. FITZWATER: Yes, Your Honor.

13 MR. WEERASINGHE: I do, Your Honor.

14 MR. CUTLER: Yes, Your Honor.

15 MR. ESPOSITO: I do, Your Honor.

16 THE COURT: And do each of you understand that
17 these are rights that you'll enjoy if your entity pleads
18 innocent, persists in that plea and goes to trial, but
19 they are rights that you will give up, or waive, simply by
20 pleading guilty to the charge in the information?

21 MR. FITZWATER: Yes, Your Honor.

22 MR. WEERASINGHE: I do, Your Honor.

23 MR. CUTLER: Yes, Your Honor.

24 MR. ESPOSITO: Yes, Your Honor.

25 THE COURT: Any questions or concerns about the

1 rights that would be given up in the event of a guilty
2 plea?

3 MR. FITZWATER: No.

4 MR. WEERASINGHE: No.

5 THE COURT: Okay. I want to make sure also that
6 each of you understand that in the event that you plead
7 guilty on behalf of your corporation, that that's going to
8 end the question of guilt or innocence of the corporation.
9 So, in the event that there's a sentence imposed that you
10 think is unfair, you're not going to be allowed for that
11 reason to withdraw the guilty plea and ask for a trial at
12 that point.

13 Do each of you understand that?

14 MR. FITZWATER: Yes, Your Honor.

15 MR. WEERASINGHE: Yes, sir.

16 MR. CUTLER: Yes, Your Honor.

17 MR. ESPOSITO: Yes, Your Honor.

18 THE COURT: All right.

19 MR. MUOIO: Your Honor, if I may, I just wanted
20 to point out that the sentence is pursuant to 11(c)(1)(C),
21 so so far as they may not think the sentence is fair, it
22 would be --

23 THE COURT: Well, no, I'm going to go through
24 that.

25 MR. MUOIO: Okay.

1 THE COURT: No, fair enough. When we get to --
2 my thought was when we get to the plea agreement, that I
3 would go through that.

4 MR. MUOIO: Absolutely.

5 THE COURT: Because that's obviously a footnote
6 to the waiver.

7 And actually that's a good point because I just
8 said if the sentence is unfair. I understand your point.
9 Okay, let me point that out now.

10 The proposed plea agreement that I've seen
11 suggests that these sentences are going to be imposed
12 pursuant to a Federal Rule of Criminal Procedure
13 11(c)(1)(C). That rule provides in effect that the
14 parties can agree to an appropriate sentence and that the
15 Court then makes a decision whether to accept or reject
16 that sentence, but doesn't have really much wiggle room to
17 do something other than what the parties have agreed.

18 In the event that the Court is unable to agree
19 to this sentence and, therefore, rejects the plea
20 agreement, then the party, the defendant who has entered
21 into that plea agreement, has the right to withdraw the
22 guilty plea under those circumstances.

23 Do each of you understand that clarification of
24 what I said earlier?

25 MR. FITZWATER: Yes, Your Honor.

1 MR. WEERASINGHE: Yes, Your Honor.

2 MR. CUTLER: Yes, Your Honor.

3 MR. ESPOSITO: Yes, Your Honor.

4 THE COURT: All right, very good.

5 You, notwithstanding pleading guilty, you would
6 ordinarily retain the right to appeal your sentence, that
7 is, the sentence imposed on the corporation. Again, in
8 the plea agreement there is a waiver of the right to
9 appeal or collaterally attack both the conviction and the
10 sentence, other than for ineffective assistance of your
11 counsel, so in the event that you enter guilty pleas on
12 behalf of your entities and do that pursuant to the
13 proposed plea agreements that I've seen, then as a
14 practical matter the case will be over regarding both the
15 conviction and sentence of these entities, unless I later
16 reject the plea agreement.

17 Do each of you understand that?

18 MR. FITZWATER: Yes, Your Honor.

19 MR. WEERASINGHE: Yes, Your Honor.

20 MR. CUTLER: Yes, Your Honor.

21 MR. ESPOSITO: Yes, Your Honor.

22 THE COURT: All right, very good.

23 All right. Let's turn then to the four draft
24 plea agreements, and I'd like to start by making sure from
25 each of you that the proposed plea agreements have been

1 reviewed both with counsel and with -- and have been
2 reviewed and approved by any necessary internal bodies,
3 Board of Directors, committees, other executives, so that
4 each of the entities here has had a full and fair
5 opportunity to review and consider and decide whether to
6 enter into these written plea agreements. Is that the
7 case?

8 MR. FITZWATER: Yes.

9 MR. WEERASINGHE: Yes, Your Honor.

10 MR. CUTLER: Yes, Your Honor. I would just say
11 that what was shared with our authorizing body was
12 something substantially in the form of the draft that is
13 now before the Court.

14 THE COURT: Very good. There have been some
15 minor changes --

16 MR. CUTLER: Yes.

17 THE COURT: -- but anything that you believe is
18 material?

19 MR. CUTLER: No.

20 THE COURT: Very good.

21 MR. ESPOSITO: Yes, Your Honor.

22 THE COURT: Okay. All right. What I'd like to
23 do is ask Mr. Muoio to summarize the common provisions of
24 these plea agreements and point out on an individual basis
25 for each defendant that has anything somewhat different

1 from the standard or common language, so that each of the
2 defendants is apprized of the specifics of what's set
3 forth in their specific plea agreement.

4 I'm going to ask each of you to listen carefully
5 because then I'm going to ask the corporate
6 representatives whether the summary or the description
7 that's rendered by Mr. Muoio is consistent with your
8 understanding of what the plea agreements say.

9 MR. MUOIO: Thank you, Your Honor.

10 The parties have entered into binding agreements
11 pursuant to 11(c)(1)(C), as we said. The agreement
12 recites the various Constitutional rights they have,
13 provides for waiver of various rights acknowledgments,
14 that the banks are, in effect, guilty and the plea is
15 voluntary.

16 The plea agreements separately call for separate
17 fines. In the case of Barclays PLC, it is a fine of 650
18 million dollars; in the case of Citicorp, it is
19 925 million-dollars; in the case of J P Morgan Chase &
20 Company, it is 550 million-dollars, and; in the case of
21 the Royal Bank of Scotland PLC it is 395 million-dollars.

22 In addition, for Barclays it calls for an
23 additional penalty of 60 million-dollars based on conduct
24 that violated a 2012 non-prosecution agreement with the
25 Criminal Division, Fraud Section, of the U. S. Department

1 of Justice regarding benchmarked interest rates, including
2 at the London InterBank Offered Rate, LIBOR.

3 More detail about the non-prosecution agreement
4 is laid out in paragraphs 9 to 11 of the Barclays plea
5 agreement.

6 All of the banks will pay a special assessment
7 of \$400.

8 In light of the availability of civil causes of
9 action which potentially provide up to treble damages and
10 joint and several liability, the recommended sentence does
11 not include an order of restitution.

12 The plea agreement calls for a probationary term
13 of three years in all cases. The general outline of those
14 probationary terms contained in the plea agreements
15 indicate that the Bank will not commit further crimes,
16 they will not -- that the Bank will promptly post on its
17 website certain disclosure related to other related
18 conduct that's identified in relevant paragraph of the
19 respective plea agreements.

20 The Banks will notify the probation office upon
21 learning of the commencement of any federal criminal
22 investigation as a target, and federal criminal
23 prosecutions. It will implement compliance programs and
24 it will provide annual reports to probation.

25 They will report credible information regarding

1 criminal violations of specified sort to the Antitrust
2 Division and to the Fraud Section of the Criminal
3 Division.

4 They call for cooperation by the Banks with
5 respect to both the charged conduct and with respect to
6 investigations of other currency pairs and other
7 FX-related products.

8 They also call for cooperation with respect to
9 investigations related to the conduct identified as "other
10 relevant conduct." And other conduct -- and other
11 investigations still that are identified in the
12 attachments that the government would like to ultimately
13 move for sealing of those attachments; A for all of the
14 Banks and there's also an Attachment B in the case of
15 Barclays.

16 The plea agreements call for non-prosecution
17 protection with respect to no further prosecution for the
18 charged conduct, and also no prosecution for price fixing
19 and bid rigging conduct with respect to other currency
20 pairs and other products that are identified in the plea
21 agreements.

22 It also provides for no criminal prosecution
23 with respect to the other relevant conduct that's
24 identified.

25 In the case of Barclays, there is the specific

1 exemption of one investigation. I believe I indicated
2 that in a separate Attachment B from their cooperation
3 obligation.

4 And I think that is about it for most of the key
5 terms, Your Honor.

6 THE COURT: Okay. It might be helpful to set
7 forth briefly a summary of the conduct that the government
8 believes would make each of these four defendants liable
9 for the charges that have been filed.

10 MR. MUOIO: Absolutely.

11 The government would prove, between both
12 witnesses and documentary evidence, that the FX market,
13 being a multi-trillion dollar global market in which
14 participants bought and sold and traded currencies against
15 one another in pairs, including the Euro/Dollar currency
16 pair, which is the most traded currency pair by volume;
17 that these Banks' financial service firms were acting as
18 dealers in the United States and elsewhere for the
19 currency traded in the FX Spot Market.

20 During the relevant period, defined in the plea
21 agreement as at least as early as December 2007 and
22 continuing until at least January 2013, the Banks and
23 their corporate coconspirators entered into and engaged in
24 a combination and conspiracy to fix, stabilize, maintain,
25 increase or decrease the price of and rig bids and offers

1 for the Euro/Dollar currency pair exchanged in the foreign
2 exchange Spot Market by agreeing to eliminate competition
3 for the purchase and sale of the Euro/Dollar currency pair
4 in the United States and elsewhere.

5 The Banks did this through one of its
6 Euro/Dollar traders. It knowingly participated in the
7 conspiracy from, in the case of Barclays, at least as
8 early as December 2007 until at least August 2012. In the
9 case of Barclays, there is actually a second trader that
10 engaged in the conduct. Citicorp, from at least as early
11 December 2007 to at least January 2013; for JP Morgan
12 Chase & Company, at least as early as July 2010 until at
13 least January 2013, and; for the Royal Bank of Scotland
14 PLC, at least as early as December 2007 until at least
15 April 2010.

16 In furtherance of the conspiracy, the Bank and
17 its conspirators engaged in communications, including
18 nearly daily conversations, some of which were in code, in
19 an exclusive electronic chat room, in which chat room
20 participants, as well as others in the FX Spot Market, are
21 referred to as the "Cartel" or the "Mafia."

22 The Bank and co-conspirators carried out the
23 conspiracy to eliminate competition in the purchase and
24 sale of Euro/Dollar currency pair by various means and
25 methods, including in certain instances by coordinating

1 the trading of Euro/Dollar currency pair in connection
2 with European Central Bank and World Market/Reuters
3 benchmark fixes, currency fixes, which occurred at 2:15
4 Central European Time, and 4:00 British Mean Time, each
5 trading day; two, refraining from certain trading behavior
6 by withholding bids and offers, and one co-conspirator
7 held an open risk position so that the price of the
8 currency traded would not move in a direction adverse to
9 the conspirator in the open risk position.

10 And during the relevant period, each of the
11 Banks purchased and sold substantial quantities of
12 Euro/Dollar currency pair in a continuous and
13 uninterrupted flow of interstate and U. S. import trade
14 and commerce, and in purchases and sales of Euro/Dollar
15 currency pair within the flow of and substantially
16 affected interstate, U. S. and foreign trade and commerce.

17 The conspiracy had a direct effect on trade and
18 commerce of the United States, as well as on U. S. trade
19 and commerce and was carried out in part within the
20 District of Connecticut and elsewhere in the United
21 States. Acts in furtherance of the conspiracy were
22 committed in the District of Connecticut and elsewhere.

23 THE COURT: All right, thank you.

24 Let me ask each of the corporate representatives
25 whether they understand and agree with the summary of the

1 of their respective plea agreements that was just provided
2 by Mr. Muoio

3 MR. FITZWATER: Yes, I do, Your Honor.

4 MR. WEERASINGHE: Yes, I do, Your Honor.

5 MR. CUTLER: Yes, sir.

6 MR. ESPOSITO: Yes, Your Honor.

7 THE COURT: All right. Okay. I wanted to go
8 over a couple things and just make sure that we're all on
9 the same page.

10 There is a provision in each of these agreements
11 that I mentioned earlier, but it is important and that is
12 a waiver of your right to file any appeal or collateral
13 attack or other writ or motion that would challenge either
14 the conviction or the sentence so long as the recommended
15 sentence or a lesser sentence is imposed by the Court.

16 There are also three elements of the charged
17 offense. First, that the conspiracy to restrain trade as
18 set forth in the respective informations existed at the
19 time alleged; that each defendant knowingly became a
20 member of the conspiracy, and; that the conspiracy alleged
21 in the information substantially affected interstate
22 commerce or the import of goods into and out of the United
23 States.

24 Do each of you understand the waiver I described
25 and the elements that I just described?

1 MR. FITZWATER: Yes, Your Honor.

2 MR. WEERASINGHE: Yes, Your Honor.

3 MR. CUTLER: Yes, Your Honor.

4 MR. ESPOSITO: I understand, Your Honor.

5 THE COURT: Very good. There's reference in the
6 plea agreements to the sentencing guidelines. The
7 sentencing guidelines are in essence a body of -- how do
8 you describe the sentencing guidelines.

9 Let me put it this way: They require judges to
10 consider certain information and as a result of that
11 information, can make calculations, get advice about how
12 to sentence a particular defendant, and I'm required to
13 consider the sentencing guidelines.

14 I want to make sure that each of you have had
15 discussions with your counsel regarding the existence and
16 effect of the sentencing guidelines in your particular
17 case.

18 MR. FITZWATER: Yes, I have, Your Honor.

19 MR. WEERASINGHE: Yes, I have, Your Honor.

20 MR. CUTLER: Yes, Your Honor.

21 MR. ESPOSITO: Yes, Your Honor.

22 THE COURT: Very good. In the case of Barclays
23 there's some provisions in the plea agreement that relate
24 to the non-prosecution agreement. Mr. Muoio touched on
25 those somewhat. I just want to make sure that you have

1 read and understand and agree with those, in effect,
2 additional provisions.

3 MR. FITZWATER: Yes, I have, Your Honor.

4 THE COURT: Very good. Because this is an
5 11(c)(1)(C) agreement, it is important that each of the
6 defendants understand what has been defined as the
7 recommended sentence. I think we've gone over that but I
8 want to make sure that if any of you have any questions
9 about what the recommended sentence is, that you raise
10 them now because it's going to be, it's going to be there
11 and affecting this case if we don't raise it at this
12 point.

13 Do any of you have any questions or concerns
14 about the recommended sentence?

15 MR. FITZWATER: No, Your Honor.

16 MR. WEERASINGHE: No, Your Honor.

17 MR. CUTLER: No, Your Honor.

18 MR. ESPOSITO: No, Your Honor.

19 THE COURT: And I want to be sure that the pleas
20 that are reflected by the written plea agreements in each
21 of these four cases are the voluntary act of each of the
22 defendants, and that there have been no threats or efforts
23 to intimate any of these defenders into entering into the
24 plea agreement or into pleading guilty today. Is that the
25 case?

1 MR. FITZWATER: Yes, Your Honor.

2 MR. WEERASINGHE: Yes, Your Honor.

3 MR. CUTLER: Yes, Your Honor.

4 MR. ESPOSITO: Yes, Your Honor.

5 THE COURT: I also want to make sure, as set
6 forth in writing, that -- in each of these agreements,
7 that the written plea agreement, as well as the
8 attachments thereto, constitute the entire agreement
9 reached between each of the defendants and the government
10 concerning the defendants' decisions to plead guilty
11 today.

12 So I want to have you confirm that there is no
13 other statement or representation that your company is
14 relying upon in deciding to enter into the plea agreement
15 or into pleading guilty today, other than what's been put
16 down in writing.

17 MR. FITZWATER: That is correct, Your Honor.

18 MR. RICCIO: That is correct.

19 MR. CUTLER: Yes, Your Honor.

20 MR. ESPOSITO: That is correct, Your Honor.

21 THE COURT: Very good. And then, finally, the
22 plea agreement requires the posting of a disclosure notice
23 publicly. Each of the plea agreements has a draft or --
24 not a draft, but a disclosure notice that is written with
25 respect to each of the individual corporations.

1 Have each of you had a chance to review and
2 discuss the disclosure notice, and are you satisfied that
3 it accurately reflects actual facts regarding your
4 corporation's involvement in this scheme?

5 MR. FITZWATER: Yes, Your Honor.

6 MR. WEERASINGHE: Yes, Your Honor.

7 MR. CUTLER: Yes, Your Honor.

8 MR. ESPOSITO: Yes, Your Honor.

9 THE COURT: Do any of you have any questions or
10 concerns about the proposed plea agreements that you'd
11 like to raise at this time?

12 MR. FITZWATER: No, Your Honor.

13 MR. WEERASINGHE: No.

14 (Pause)

15 THE COURT: Mr. Cutler, do you have a concern?

16 MR. CUTLER: No, Your Honor.

17 MR. ESPOSITO: No, Your Honor.

18 THE COURT: All right, very good. I'd like
19 briefly to have each of the corporate representatives
20 focus on the elements and confirm my understanding that
21 each of these entities is admitting each of the essential
22 elements of this offense, specifically that the conspiracy
23 described in the information existed, that each of the
24 respective defendants knowingly became a member of the
25 conspiracy, and that the conspiracy meets the

1 jurisdictional requirement of affecting interstate or
2 foreign commerce.

3 MR. FITZWATER: Yes, Your Honor.

4 MR. WEERASINGHE: Yes, Your Honor.

5 MR. CUTLER: Yes, Your Honor.

6 MR. ESPOSITO: Yes, Your Honor.

7 THE COURT: Mr. Muoio, do you want me to
8 actually -- do you want me to inquire any further from any
9 defendant regarding their understanding or agreement with
10 either the plea agreement or the notice of disclosure? Or
11 do you want to comment any further regarding their
12 commission of the elements of the offense? Are you
13 satisfied with the colloquy?

14 MR. MUOIO: I think we're fine, Your Honor.

15 THE COURT: Very good. There is one other
16 point, it's a minor point but it's in -- the plea
17 agreements all provide that the probation office will not
18 be preparing what's known as a presentence report
19 regarding these defenders.

20 Normally a presentence report is a comprehensive
21 report that the Court receives that describes information
22 that may be helpful to sentencing, or in this case, that
23 may be helpful in deciding whether to accept the
24 recommended sentence or not.

25 Each of these agreements waives the preparation

1 of that document and I want to make sure that no one has
2 any concerns about that provision of the plea agreement.

3 MR. FITZWATER: I have no concerns, Your Honor.

4 MR. WEERASINGHE: I have no concerns, Your
5 Honor.

6 MR. CUTLER: Same here, Your Honor.

7 MR. ESPOSITO: I have no concerns, Your Honor.

8 THE COURT: All right. One last kind of
9 logistical issue. Mr. Muoio, You said at some point
10 you're going to ask to seal attachments to the plea
11 agreements?

12 MR. MUOIO: That is correct, Your Honor.

13 THE COURT: I'm happy to provisionally order
14 those attachments be sealed. It would be helpful to get a
15 formal motion at some point.

16 MR. MUOIO: We do have motions and they are
17 unopposed motions and we're happy to hand them up now or
18 to do it at the conclusion of the proceeding.

19 THE COURT: Let's do it at the conclusion, but
20 understand that I'll be granting those motions to seal at
21 least until I have a chance to review the substance of the
22 attachments there.

23 Okay. Unless anyone thinks we ought to do any
24 further discussion, I think we're ready to accept pleas
25 from each of the defendants. Is there anyone who has any

1 questions or concerns before we turn to the formal pleas?

2 (Pause)

3 THE COURT: All right.

4 MR. MUOIO: I do have one other housekeeping
5 matter, Your Honor.

6 THE COURT: Yes.

7 MR. MUOIO: And that is we also will be
8 submitting a motion for alternative means for notifying
9 victims.

10 THE COURT: Yes.

11 MR. MUOIO: They have been served upon the
12 defendants. I'm not sure I can quite represent that they
13 are unopposed, but they call for providing notice via a
14 website and via contacting class action plaintiff's
15 counsel about any future proceedings, and we would like to
16 ultimately hand that up as well today.

17 THE COURT: That's fine. I don't think that
18 requires action today though.

19 MR. MUOIO: It does not, Your Honor.

20 THE COURT: Very good. Okay. All right.

21 Unlike everything else today, we're going to do this one
22 at a time and we'll do this in alphabetical order.

23 So I would ask the corporate representative from
24 Barclays please to stand and to be put to plea, or put his
25 entity to plea.

1 THE CLERK: In the case of United States v.
2 Barclays PLC, Criminal Number 3:15CR-77 SRU, as to the
3 information charging you with the violation of Title 15,
4 United States Code Section 1, what is your plea?

5 MR. FITZWATER: Guilty.

6 THE CLERK: Your Honor, the defendant pleads
7 guilty to Count One of the information.

8 THE COURT: Thank you. Thank you, you may be
9 seated. Let's turn next to Citicorp.

10 THE CLERK: In the case of United States v.
11 Citicorp, Criminal Number 3:15CR-78 SRU, as to Count One
12 of the information charging you with a violation of Title
13 15, United States Code, Section 1, what is your plea?

14 MR. WEERASINGHE: The Company pleads guilty.

15 THE CLERK: Your Honor, the defendant pleads
16 guilty to Count One of the information.

17 THE COURT: Thank you. JP Morgan Chase &
18 Company.

19 THE CLERK: In the case of United States v. JP
20 Morgan Chase & Company, Criminal Number 3:15CR-79 SRU, as
21 to Count One of the information charging you with a
22 violation of Title 15, United States Code, Section 1, what
23 is your plea?

24 MR. CUTLER: Guilty.

25 THE CLERK: Your Honor, the defendant pleads

1 guilty to Count 1 of the information.

2 THE COURT: Thank you. And now the Royal Bank
3 of Scotland PLC.

4 THE CLERK: In the case of the United States v.
5 Royal Bank of Scotland PLC, Criminal Number 3:15CR-80 SRU,
6 as to Count One of the information charging you with a
7 violation of Title 15, United States Code, Section 1, what
8 is your plea?

9 MR. ESPOSITO: The Company pleads guilty.

10 THE CLERK: Your Honor, the defendant pleads
11 guilty to Count One of the information.

12 THE COURT: Thank you. It is the finding of the
13 Court in the cases of United States v. Barclays PLC,
14 United States v. Citicorp, United States v. JP Morgan
15 Chase & Company, and United States v. Royal Bank of
16 Scotland Group, PLC, that each of the defendants is,
17 through the corporate representatives, is fully authorized
18 and capable of entering informed pleas, that the
19 defendants are aware of the nature of the charge and the
20 consequences of the pleas, and the pleas of guilty are
21 knowing and voluntary pleas supported by independent basis
22 in fact satisfying each of the essential elements of these
23 informations.

24 The pleas to the four respective informations
25 are, therefore, accepted and the defendants are

1 adjudicated guilty of those offenses. Findings of guilty
2 shall enter and this case will be set down for sentencing
3 at an appropriate time; my understanding being that the
4 parties would like to schedule a sentencing at some future
5 date, at present uncertain.

6 MR. MUOIO: That is correct, Your Honor. There
7 is need for regulatory waiver and there's a provisional
8 plea agreement that calls for the potential continuance of
9 any sentencing until a later date.

10 THE COURT: Very good. I assume that everybody
11 would like to have the four plea agreements docketed
12 today, is that correct?

13 MR. ENGLISH: Yes.

14 THE COURT: Is that --

15 MR. MUOIO: Yes, Your Honor.

16 THE COURT: Any objection to doing that?

17 MR. CARROLL: No objection, Your Honor, no.

18 MR. WENNER: No objection.

19 THE COURT: All right. Those four plea
20 agreements will be docketed. I think it's important that
21 we get those signed up. I don't know if they've already
22 been signed. I've seen only a draft.

23 MR. MUOIO: We have signed originals here, Your
24 Honor.

25 THE COURT: Very good. All right, so after the

1 proceeding if you could just hand up the signed originals,
2 we'll get those docketed.

3 All right. I think the only other thing that I
4 wanted to mention is that because this is a 11(c)(1)(C),
5 these are 11(c)(1)(C) pleas, I need some basis for
6 undertaking the determination whether to accept these
7 pleas or not at the appropriate time.

8 We don't have, as I noted before, a presentence
9 report that's going to be written and so I won't have that
10 available to me. So it's going to be important, if
11 possible, to have some form of presentation of the
12 parties' respective viewpoints regarding whether this is,
13 the recommended sentences are, in fact, appropriate and,
14 if so, why. I'm assuming there's agreement on that but it
15 would be helpful to have some information, more than I
16 currently have, that will allow me to make that
17 determination.

18 So, at some point it may make sense to have a
19 phone conference or other proceeding at which we address
20 that need or concern. There's no need to sort it out now
21 unless you have suggestions, but I have at least a little
22 bit of discretion and some basis for exercising.

23 MR. CARROLL: That sounds appropriate, Your
24 Honor.

25 THE COURT: Very good.

1 MR. MUOIO: A phone conference sounds great,
2 Your Honor.

3 THE COURT: Very good. All right.

4 All right. Just so that I'm clear, we filed the
5 four informations, you're going to file the four written
6 plea agreements that have been executed and the pleas have
7 entered, we've ordered to at least provisionally seal the
8 attachments to the plea agreements. Is there anything
9 that I'm overlooking?

10 MR. MUOIO: I don't think so, Your Honor.

11 THE COURT: All right. Again, I want to thank
12 everybody for agreeing to do this in a more efficient, if
13 somewhat cumbersome manner, and I look forward to further
14 proceedings in this case.

15 Thank you all for coming in. We'll stand in
16 recess.

17 (Whereupon the above matter was adjourned at
18 12:00 o'clock noon.)

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C E R T I F I C A T E

I, Susan E. Catucci, RMR, Official Court Reporter for the United States District Court for the District of Connecticut, do hereby certify that the foregoing pages are a true and accurate transcription of my shorthand notes taken in the aforementioned matter to the best of my skill and ability.

/S/ Susan E. Catucci

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