



## PRESS RELEASE No 94/25

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Judgment of the General Court in Case T-84/22 | UBS Group and Others v Commission

### **Competition: the General Court confirms the participation of Credit Suisse in an agreement in the spot-trading sector but reduces the amount of the fine imposed on it from €83.2 million to €28.9 million**

*While Credit Suisse did indeed participate in the agreement, the Commission failed, however, to determine correctly the proxy for the value of its sales in order to set the amount of the fine penalising that infringement*

Following an investigation into the sector of Foreign Exchange (FOREX) spot trading of G10 currencies, <sup>1</sup> the European Commission revealed that, between 2011 and 2012, certain traders, who were involved in such transactions and worked for different banks, had exchanged sensitive information in a professional online chatroom called 'Sterling Lads.' Those exchanges of information enabled the traders to make decisions in full knowledge of the facts as to the advisability of buying or selling those currencies and the timing of such trades. By way of that conduct, five undertakings active in the banking and financial sector – namely, Credit Suisse, Barclays, HSBC, RBS and UBS – reduced their uncertainty in that sector and distorted free competition.

The Commission adopted a settlement decision <sup>2</sup> with regard to four banks (Barclays, HSBC, RBS and UBS) that had cooperated with the Commission during the investigation; that decision granted UBS conditional immunity from fines. Since Credit Suisse did not cooperate with the Commission during that investigation, the latter imposed a fine by a separate decision of €83.2 million on Credit Suisse. <sup>3</sup>

Believing themselves to have been wronged by that decision, the applicants UBS Group AG – the successor in law to Credit Suisse Group AG –, UBS AG – the successor in law to Credit Suisse AG <sup>4</sup> – and Credit Suisse Securities (Europe) Ltd, brought an action before the General Court of the European Union. They sought annulment of that decision and, at the very least, a reduction of the amount of the fine.

First of all, the General Court rules that the pleas on which the applicants rely, seeking to contest the decision of the Commission on the grounds that the latter had wrongly found them to be involved in an anticompetitive agreement, are unfounded. Consequently, **the General Court rejects the application seeking annulment of the Commission's decision on those grounds.**

However, the General Court **annuls the contested decision in part and consequently reduces the amount of the fine imposed to €28.9 million.** According to the General Court, the applicants have rightly claimed that certain data used by the Commission in determining the proxy for the value of Credit Suisse's sales were less complete and reliable than those proposed for that purpose by Credit Suisse during the administrative procedure. The General Court finds that the Commission therefore failed to comply with the Guidelines on the method of setting fines, pursuant to which it is for the Commission to rely on the best available figures, and miscalculated the basic amount of the fine that it imposed on Credit Suisse.

**NOTE:** An action for annulment seeks the annulment of acts of the institutions of the European Union that are contrary to EU law. If the action is well founded, the act is annulled. The institution concerned must fill any legal vacuum created by the annulment of the act.

**NOTE:** An appeal, limited to points of law only, may be brought before the Court of Justice against the decision of the General Court within two months and ten days of notification of the decision.

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The [full text and, as the case may be, an abstract](#) of the judgment is published on the CURIA website on the day of delivery.

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Images of the delivery of the judgment are available on '[Europe by Satellite](#)' ☎ (+32) 2 2964106.

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<sup>1</sup> Namely the euro (EUR); the Australian dollar (AUD); the Canadian dollar (CAD); the Swiss franc (CHF); the Danish krone (DKK); the British pound (GBP); the Japanese yen (JPY); the Norwegian krone (NOK); the New Zealand dollar (NZD); the krona (SEK); and the United States dollar (USD); i.e. a total of 11 currencies, which correspond to the market convention for currencies under the G10 designation.

<sup>2</sup> That decision is not the subject of the present action before the General Court.

<sup>3</sup> [Commission Decision of 2 December 2021](#) relating to a proceeding under Article 101 of the Treaty on the Functioning of the European Union and Article 53 of the EEA Agreement (Case AT.40135 – FOREX (Sterling Lads)) [notified under number C(2021) 8612 final]. See the Commission's [press release](#) in that connection.

<sup>4</sup> Following the acquisition of Credit Suisse by UBS, along with all of the rights and obligations of the former, UBS Group AG and UBS AG take the place of Credit Suisse Group AG and Credit Suisse AG in the action in Case T-84/22.