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Judgment of the General Court in Cases T-441/21 | UBS Group and UBS v Commission, T-449/21 | Natixis v Commission, T-453/21 | UniCredit and UniCredit Bank v Commission, T-455/21 | Nomura International and Nomura Holdings v Commission, T-456/21 | Bank of America and Bank of America Corporation v Commission, T-462/21 | Portigon v Commission (European Government Bonds)

Cartel in the European Government Bonds sector: the General Court largely confirms the decision of the Commission

However, the General Court moderately reduces the amount of the fines imposed on UniCredit and Nomura

By decision of 20 May 2021, ¹ the European Commission found that seven investment banks – UBS, Natixis, UniCredit, Nomura, Bank of America, Portigon (formerly WestLB) and NatWest (formerly Royal Bank of Scotland) – had participated, between January 2007 and November 2011, in a cartel in the European Government Bonds ² (EGBs) sector. The traders of those banks had colluded and exchanged information in order to gain competitive advantages in the issuance, placing or trading of EGBs, which had had an impact on the entire market in the European Economic Area (EEA).

The Commission imposed fines on Nomura, UBS and UniCredit totalling € 371 million. Bank of America, Natixis and NatWest were not fined; in so far as concerns the former two banks, because the Commission's power to impose financial penalties was time-barred, and, in so far as concerns the latter bank, because it had disclosed the cartel to the Commission. The amount of the fine imposed on Portigon was capped at € 0 due to the fact that its turnover during the preceding business year, which was used to determine the maximum amount of the fine, was negative.

Six of the seven banks (all but NatWest) brought an action before the General Court of the European Union seeking the annulment of the Commission's decision or the reduction of the amount of the fines imposed on them.

In today's judgment, **the General Court has largely confirmed the Commission's decision**. However, **it has moderately reduced the amount of the fines imposed on UniCredit and Nomura**.

Companies	Fines imposed by the Commission (€)	Decision of the General Court
UBS Group AG and UBS AG	Jointly and severally: 172 378 000	Action dismissed Fine maintained
Nomura International plc and Nomura Holdings, Inc.	Jointly and severally: 129 573 000	Fine reduced Jointly and severally: 125 646 000

UniCredit and UniCredit Bank	Jointly and severally: 69 442 000	Fine reduced Jointly and severally: 65 000 000
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As regards Nomura, the General Court found that the Commission had erred in the determination of one of the elements of the fine by refusing to use the exact data which that bank had provided to it. In the case of UniCredit, the General Court found that the anticompetitive conduct began 17 days later than the date indicated by the Commission.

In addition, the General Court confirmed that **one single and continuous infringement** had occurred and that the exchanges of commercially sensitive information, price-fixing arrangements, market sharing and customer allocation on both the primary and secondary market for EGBs were **particularly harmful to competition**. As a result, the Commission was not required to investigate or demonstrate the effects of the traders' conduct in dispute on competition.

The General Court recalled that any anticompetitive conduct on the part of an employee is attributable to the undertaking to which he or she belongs. Accordingly, **banks are liable for the conduct of their traders**.

Lastly, the General Court confirmed that the Commission had an interest in finding the infringement with regard to Bank of America and Natixis, which were not fined. Their identification in the decision was capable of contributing to establishing the infringement or to explaining the scope of the traders' unlawful conduct.

NOTE: An action for annulment seeks the annulment of acts of the institutions of the European Union that are contrary to European Union law. The Member States, the European institutions and individuals may, under certain conditions, bring an action for annulment before the Court of Justice or the General Court. 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.

Unofficial document for media use, not binding on the General Court.

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

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

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¹ Commission Decision C(2021) 3489 final of 20 May 2021 relating to a proceeding under Article 101 TFEU and Article 53 of the EEA Agreement (Case AT.40324 – European Government Bonds).

² EGBs are debt securities allowing Eurozone Member States to raise cash to fund certain expenditures or certain investments, in particular to refinance existing debt. They are offered for sale for the first time by, or on behalf of, their issuer on the primary market, and are subsequently traded on the secondary market.