DISCLAIMER: The information provided in this guidance is for general information purposes only. The information may not be applicable in all situations and may not, after the date of this final guidance, even reflect the most current authority. It is not intended and should not be construed to constitute legal advice and should not be relied or acted upon without the benefit of independent competition law advice.

FOREIGN EXCHANGE JOINT STANDING COMMITTEE

LONDON

Competition Law Guidance for Members of the Foreign Exchange Joint Standing Committee ("FXJSC")[1]

General Guidance

The purpose of the FXJSC is to provide a senior-level forum for market participants and infrastructure providers active in the UK and the relevant UK public authorities to discuss conjunctural and structural issues concerning the UK's wholesale foreign exchange market and associated supporting infrastructure. It is acknowledged that this is a legitimate purpose.

The FXJSC's membership includes active market participants and therefore particular care should be taken to ensure that the FXJSC neither facilitates, nor is the focal point of, any anti-competitive behaviour.

In particular, UK and EU competition law provides that, in certain cases, the sharing of commercially sensitive information between actual or potential competitors can breach such laws. In broad terms, this is because the sharing of such information can reduce competitive uncertainty in a given market by providing information as to a competitor's commercial strategy. In certain circumstances, the mere giving or receiving of such information (even in the absence of specific agreement and even if unsolicited), can be considered a breach of competition law, and may lead to the imposition of sanctions. Specific examples of commercially sensitive information in the context of the wholesale foreign exchange market are provided below.

That said, in the context of groups such as the FXJSC, the sharing of certain information is essential in order to fulfill its purpose. Broad guidelines for the sharing of such information are set out below.[2]

Note that competition authorities (including the Competition and Markets Authority and the Financial Conduct Authority in the UK) can mount an investigation on their own initiative, or prompted by a complaint from a third party, provided that they have reasonable grounds for suspecting that there is an infringement of competition law.

Aside from the reputational damage, penalties for a breach of competition law can include fines of up to 10% of a company's worldwide turnover, mandatory exclusion from government tenders, and there is also an increasing likelihood of damages claims from third parties. Under UK law, an individual also runs personal risks of imprisonment/unlimited fine if involved in certain cartel conduct, and possible disqualification of up to 15 years from holding directorships.

Accordingly, FXJSC members should take care when they communicate - whether at formal or informal meetings (including social events), conference calls or electronically - to ensure that no conduct is, becomes

[1] Owing to the role of the FCA as a competition authority under Part 16A of the Financial Services and Markets Act 2000 and other laws, these guidelines, and any advice given under or pursuant to them, should not be taken to represent the views of, or be approved by, the FCA.

[2] It is worth bearing in mind that in the vast majority of cases, foreign exchange markets will be global in scope, so jurisdiction of competition authorities is likely to stretch beyond those of the UK/EU. Therefore, this guidance is designed to be of general applicability, but does not replace specific legal advice in relevant jurisdictions.

or appears to be anti-competitive. For completeness, these guidelines apply to all attendees at (or around) FXJSC meetings, whether formally a member or otherwise an observer or guest speaker.

Please review these guidelines carefully and share them with any of your staff involved in FXJSC matters. It should be noted that these guidelines provide a summary only, and are not designed to cover every aspect of this topic or deal with every situation. The FXJSC cannot provide advice to participants about their competition law compliance, so please talk to your firm's competition lawyer or compliance professional for specific advice.

Information Exchange - What Cannot be Shared?

Members of associations must refrain from discussing with other members non-public information of a **commercially sensitive** nature, whether this relates to (a) past prices (which are likely to inform or reveal a competitor's current or future market conduct), current and future prices (for banks this would include interest rates, fees, commissions and charges); or (b) the elements of individual pricing policy, for example discounts, costs, pricing strategies (including terms of trade and rates) and dates of change. **Any kind of price co-ordination between competitors is likely to be treated as a serious contravention of competition law.**

Other discussions / information exchanges which must be avoided include those in respect of:

- current and intended future commercial conduct, for example, trading strategies, strategic/marketing focus on particular markets (such as specific currency pairs/geographies/customers, including plans to tender/bid for specific customers' business) or plans to expand into or withdraw from such markets;

- allocation or sharing of customers or markets (such as specific currency pairs) or marketing areas, regardless of whether the allocation is by territory, product type, customer type or otherwise;

- discussions around collective action in respect of certain competitors (including potential competitors), suppliers or customers;

- disclosure of individual customer or supplier terms and conditions, identity of customers (or any confidential information regarding customer relationships) and their future trading strategy; and

- employee salaries, bonus and / or benefits packages either by specific employee or by specific role / seniority.

As a rule of thumb, if you consider information to be confidential from a commercial perspective, then it may also be the type of information which you should not discuss with competitors from a competition law perspective. In case of doubt as to what can and cannot be shared, do not provide the information and raise the query with your firm's competition lawyer or compliance professional. It should be noted that even an agreement (or the appearance of an agreement) to share commercially sensitive information, even if no information is shared, may be problematic.

Conduct to Avoid

FXJSC members should never engage in any of the following conduct or activities:

- **Fixing Prices:** Members should never discuss or agree between themselves to fix their prices, fees, commissions, or any other element of the price or terms (for example, the bid/ask spread) of a foreign exchange transaction. They should also never make agreements that could have the effect of fixing prices, fees, commissions, spreads or any other element of the price or terms of a foreign exchange transaction.

- **Sharing Pricing Information:** Members should not discuss, share or compare information relating to their institution's past prices (which are likely to inform or reveal a competitor's current or future market conduct), current and future prices or fees, or the precise costs or policies that impact on their pricing, as this may be seen as an implicit attempt to co-ordinate prices, fees, or commissions.

- **Sharing Other Commercially Sensitive Information:** Members should not discuss or share confidential customer information (for example, their identity, the type and/or size of past and impending trades or trading patterns) or agree on trading positions or outcomes e.g. triggering client stop-loss orders. Improper sharing of such information will likely be considered a serious breach of competition law rules.

- **Boycotts:** Members should not agree, or discuss agreeing, either to treat a particular individual, company, customer, or group of customers in a prescribed manner, or to boycott any individual, company, customer, or group of customers.

- **Allocation of Customers or Territories:** Members should not agree, or discuss agreeing, to allocate customers or territories among themselves. Discussions concerning plans to expand into or withdraw from certain geographic or product markets should be avoided.

- **Coordination on Bids:** Members should not disclose confidential information with a view to coordinating their individual responses to competitive bids for a client's business.

- **Discussing Trading Strategies**: Members should not discuss or disclose any information regarding their institution's trading strategies or trading intentions.

- **Manipulating spot FX Rates:** Members should not share confidential information relating to their trading volumes, details of order book (including size and type of trades), times of execution or otherwise coordinate their trading activity around benchmark fixing windows. Any such exchange will likely be considered an attempt to manipulate spot FX currency rates.

- **Wage-fixing / No-poach Agreements:** Members should not exchange information relating to employee salaries, bonuses, benefits or other confidential terms of hire given they may be competitors in respect of the 'labour market' for certain individuals, roles or level / type of expertise.

Note, too, that **competition laws apply to ALL contacts with competitors in ALL contexts**. Therefore, even discussions outside formal meetings or conference calls between competitors, including conversations that are assumed to be "off the record" (such as in a social environment or online chat rooms), could result in scrutiny from competition authorities, so members must always be aware of their competition law obligations and exercise caution when interacting with representatives from competing firms.

Conduct Subject to Analysis

The following activities may or may not be permissible, depending on the circumstances. Competition law requires individuals and firms to weigh up the positive and negative aspects of an activity from a competition point of view in order to form an overall view. Formal analysis by a competition lawyer would include considering whether the customer gets a fair share of the benefits and whether the potential for competitive restriction/detriment is necessary and not more restrictive than is necessary to achieve its ends. Care should be taken to ensure that seemingly permissible activities do not mask or promote actions that are, or could be, interpreted as anti-competitive.

In relation to each of the below activities, members are strongly encouraged to seek competition law advice to ensure full compliance with all applicable laws.

- **Standard Setting:** While standard setting may be pro-competitive, it may give rise to competition concerns in specific circumstances. In particular, activities where the particular standards make it more difficult for specific entities to compete in the market may be a problem and should be taken into account in the overall judgement. Any features that are added to a standard should be supported by legitimate business reasons. The process for participation in the standard setting process should be fair, transparent and non-discriminatory. Adherence to the standards set should be voluntary and should not restrict member's independent commercial decision making.

- **Information Sharing:** Some information about a member's business may be shared in order to contribute to the drafting of best practice recommendations or standard documentation. The nature of scope of the information that can be exchanged should be limited to that strictly necessary for the intended purpose. Where possible, information should be shared in aggregated and anonymised form rather than at a granular level.

- However, as noted above, information sharing between members concerning matters such as prices charged for services rendered, business plans, marketing plans, new product development, future trading strategies and costs and profits that is not already publicly available, and which is competitively sensitive, should be avoided.

- **Best Practice Recommendations:** It is not uncommon for the FXJSC to issue best practice recommendations to develop market practice and overcome market deficiencies. This is one of the most important activities of the FXJSC and can be done legally, so long as a few principles are kept in mind e.g. best practice recommendations which have the potential effect of reducing or restricting competition in the pricing of products or services should be considered carefully with expert advice. Standards should seek to discourage practices that have a detrimental effect on customers and/or the reputation and integrity of the industry.

- **Legislative Activities**: Joint initiatives with other dealers in relation to lobbying around legislative proposals will generally be legal. There are, however, limitations to what can legitimately be done. While it is not necessarily problematic to discuss future regulatory developments with competitors with a view to shaping and understanding the requirements of future legislation, it may be relatively easy for discussions about future developments to flow into individual firms strategies for implementing legislative changes and explicit or implicit alignment of future conduct. As regards the implementation of new legislation or regulation, it is up to each individual member to decide independently how to implement such changes. Members should not discuss their planned individual responses to the impact of regulatory reform (e.g. how to pass on any increased costs of compliance; how to modify trading terms or relationships as a result of new legislation). Further, it is important that members do not share any "spillover" information that is unrelated to lobbying efforts, such as prices, margins, commercial strategies etc. Members should ensure that they do not use a lobbying framework to agree industry solutions in place of a piece of legislation. Members are encouraged to seek legal advice in advance of any collaboration with other dealers in respect of legislative activities.

Procedures in Place Which Help to Ensure Compliance

- All FXJSC main committee meetings have a written agenda circulated in advance, minutes are recorded and reviewed by members, and then these are made publicly available via the FXJSC website.

- All new FXJSC members should receive these guidelines with the FXJSC Terms of Reference and existing members will be reminded of these guidelines at FXJSC meetings from time to time and at least once a year.

- In addition, the FXJSC's Legal Sub-committee is also able to provide advice on the FXJSC's proposals in the context of competition law. It is strongly recommended that a member of the FXJSC's Legal Sub-committee or an external legal counsel attend all FXJSC and FXJSC Sub-committee meetings.

What to do if a Concern Arises

If, during an FXJSC meeting, a member has concerns about the discussion from a competition law and compliance perspective, the member should make their concerns known and the discussion giving rise to such concerns should cease. If the discussion does not cease, members should leave the meeting and ask for their departure to be minuted. Competition law advice should then be taken by members, prior to the topic being discussed subsequently.

FXJSC Legal Sub-Committee

3 November 2026