

Paris, 30 August 2024

Dear ACI FMA Members,

As you know, ACI FMA is frequently engaged in initiatives focused on the enhancement of good market practices for financial markets, and we continuously support market participants in adhering to the highest standards of ethical conduct – one of the core values of our Association.

Naturally, ACI FMA has always encouraged its members, as well as all professionals working in financial markets, to acknowledge, respect and implement these standards in their roles. Since its establishment in 1955, our Association has been an active participant in the evolution of global ethical standards for the industry.

We would like to announce that ACI FMA has decided to file a new Amicus Brief to the US Federal Circuit Court on the Mark Johnson's case, given that we firmly believe that there are unresolved issues in this case that are extremely relevant for the FX Market.

This ACI FMA's initiative supports the new appeal of former HSBC executive Mark Johnson, who was convicted in October 2017 of wire fraud related to a \$3.5 billion foreign exchange order executed in October 2011 with Cairn Energy. Notably, the company did not dispute the outcome of the trade, nor did it lodge any complaints with the authorities.

In the Amicus Brief, ACI FMA "... has expressed concern regarding the proliferation of findings of misconduct in capital markets, especially as relates to FX pricing, execution and benchmarking.". The Association "... applauds enforcement, including criminal prosecution, against individual dealers where appropriate, as markets move towards elimination of such behaviour. However, as a primary voice of the individual FX dealer and a leading advocate for clarity in FX regulation, ethical conduct, and best practices...", ACI FMA's interest in the issues currently on appeal is distinct.

We believe that the charges brought in this case stand in opposition to:

- Widely accepted terms of industry standard master agreements (an ISDA Master Agreement was executed between HSBC and Cairn Energy)
- Laws and regulations specifically applicable to foreign exchange
- Established market-wide standards, custom and practice embodied in specific provisions of the FX Global Code (namely, Pre-Hedging)

ACI FMA is proud to have participated in the creation of the FX Global Code and believes that it provides an excellent framework for ethical conduct that has been enhanced and refined as market circumstances demand.

Furthermore, ACI FMA's opinion is that uncertainty created by this conviction "... has already fuelled a substantial chilling of FX liquidity as bank dealers have become less willing to face unpredictable personal legal peril in addition to the market risks they are trained to manage."

We think that this erosion of liquidity will continue unless the conviction is rectified.

We trust that this Amicus Brief will enable the US Federal Circuit Court to re-establish the primacy of trading contracts and legal certainty when negotiating trades.

We would like to express our appreciation to Jackie Drohan, President of ACI America, who played a key role in the extensive preparatory work, crucial for the presentation of the new Amicus Brief. Our sincere thanks also go to our ACI FMA President, Kim Winding Larsen, for his support of this important document.”

Kind regards,



ACI Financial Markets Association

8, rue du Mail
F - 75002 Paris,
France.

www.acifma.com

www.linkedin.com/company/acifinancialmarketsassociation