C/2025/1138

14.2.2025

Summary of Commission Decision

of 28 June 2021

pursuant to Article 7 of Council Regulation (EC) No 1/2003

in Case AT.39914 - Euro Interest Rate Derivatives

(notified under document number C(2021) 4600)

(Only the English text is authentic)

(C/2025/1138)

(Text with EEA relevance)

On 28 June 2021, the Commission adopted a decision pursuant to Article 7 of Council Regulation (EC) No 1/2003 ([1]). In accordance with the provisions of Article 30 of Council Regulation (EC) No 1/2003, the Commission herewith publishes the names of the parties and the main content of the decision, including any penalties imposed, having regard to the legitimate interest of undertakings in the protection of their business secrets. A non-confidential version of the decision is available on the Competition Directorate-General website (http://ec.europa.eu/competition/antitrust/cases/)

INTRODUCTION

(1) The Decision re-imposes a fine on HSBC Holdings plc, HSBC Bank plc and HSBC France (hereinafter jointly 'HSBC') for infringing Article 101 TFEU and Article 53 of the EEA Agreement.

PROCEDURE

(2) On 4 December 2013, the Commission adopted Commission Decision C(2013) 8512 (the '2013 Settlement Decision'). The 2013 Settlement Decision imposed fines on various legal entities of four undertakings - Barclays, Deutsche Bank, RBS and Société Générale - for their participation in a cartel regarding Euro Interest Derivatives

(3) On 7 December 2016, the Commission adopted Commission Decision C(2016) 8530 (the '2016 Decision'). The 2016 Decision imposed fines on various legal entities of three other undertakings - Crédit Agricole, HSBC and JPMorgan Chase - for their participation in the same cartel. A fine of EUR 33 606 000 was imposed on HSBC for its participation in the cartel between 12 February 2007 and 27 March 2007.

(4) On 24 September 2019, the General Court issued a judgment on HSBC's application for annulment of the 2016 Decision (the 'Judgment') ([2]). In the Judgment, the General Court upheld the Commission's findings on substance, with the exception of two contacts for which the Commission had failed to demonstrate the anticompetitive character. The Judgment endorsed the methodology used by the Commission for calculating fines. This methodology applied a proxy for the value of sales based on discounted cash receipts. The Judgment, however, considered that the Commission had failed to provide sufficient explanations of the reasons why the cash receipts were discounted with 98,849 %. On that basis, the fine imposed on HSBC was annulled.

(5) On 8 May 2020, the Commission informed HSBC about the intention to amend the 2016 Decision and re-adopt the fines. HSBC was provided with further explanations of the parameters used for setting the reduction factor for discounting the cash receipts at 98,849 %. HSBC set out its observations on these explanations in writing on 14 July 2020 and 14 May 2021.

(6) On 23 June 2021, the Advisory Committee on Restrictive Practices and Dominant Positions was consulted.

([1]) Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty (OJ L 1, 4.1.2003, p. 1).

([2]) Case T-105/17, *HSBC Holdings plc, HSBC Bank plc, HSBC France v Commission*, ECLI:EU:T:2019:675.

LEGAL ASSESSMENT

(7) This draft Decision is addressed to HSBC only and does not contain any new objections. It does not concern in any way the other addressees of the 2016 Decision.

(8) The draft Decision finds that HSBC has participated in an infringement of Article 101 of the Treaty and Article 53 of the EEA Agreement as set out in the 2016 Decision.

REMEDIES

(9) The methodology used for calculating the fine of HSBC is set out in the 2016 Decision.

(10) The draft Decision however explains in further details why the cash receipts are discounted by a reduction factor of 98,849 %, based on four elements:

(i) the netting in derivatives trading in general;

(ii) the netting inherent to the EIRD industry in particular;

(iii) the relative scale of price variations in the EIRD sector; and

(iv) the reduction factor applied in the 2013 Settlement Decision.

(11) The draft Decision also increases the reduction of 10 % granted to HSBC in the 2016 Decision for its more peripheral/minor role to 15 %. This increase takes into account the findings of the Judgment that the anticompetitive character of two contacts was insufficiently proven, and accepts that this may have an impact on both the intensity of HSBC's participation and its awareness of the single and continuous infringement. The fine is therefore set at 31 739 000 EUR.