

UNITED STATES OF AMERICA
Before the
COMMODITY FUTURES TRADING COMMISSION

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In the Matter of:)
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Barclays PLC, Barclays Bank PLC,
and Barclays Capital Inc.,)

Respondents.)
)
)

CFTC Docket No. 15 -25 ____

**ORDER INSTITUTING PROCEEDINGS PURSUANT TO
SECTIONS 6(c) AND 6(d) OF THE COMMODITY EXCHANGE ACT, MAKING
FINDINGS, AND IMPOSING REMEDIAL SANCTIONS**

I.

The Commodity Futures Trading Commission (“Commission”) has reason to believe that Barclays PLC, Barclays Bank PLC, and Barclays Capital Inc. (collectively, “Respondents,” “Barclays,” or the “Bank”) have violated the Commodity Exchange Act (the “Act” or “CEA”) and Commission Regulations (“Regulations”). Therefore, the Commission deems it appropriate and in the public interest that public administrative proceedings be, and hereby are, instituted to determine whether Respondents engaged in the violations set forth herein, and to determine whether any order shall be issued imposing remedial sanctions.

II.

In anticipation of the institution of an administrative proceeding, Respondents have submitted an Offer of Settlement (“Offer”), which the Commission has determined to accept. Without admitting or denying the findings or conclusions herein, Respondents consent to the entry and acknowledge service of this Order Instituting Proceedings Pursuant to Sections 6(c) and 6(d) of the Commodity Exchange Act, Making Findings, and Imposing Remedial Sanctions (“Order”).¹

¹ Respondents consent to the entry of this Order and to the use of these findings in this proceeding and in any other proceeding brought by the Commission or to which the Commission is a party; provided, however, that Respondents do not consent to the use of the Offer, or the findings or conclusions in this Order, as the sole basis for any other proceeding brought by the Commission, other than in a proceeding in bankruptcy or to enforce the terms of this Order. Nor do Respondents consent to the use of the Offer or this Order, or the findings in this Order consented to in the Offer, by any other party in any other proceeding.

III.

The Commission finds the following:

A. Summary

Beginning at least as early as January 2007 and continuing through June 2012 (the “Relevant Period”), Barclays, by and through certain of its traders in New York, at times attempted to manipulate the U.S. Dollar International Swaps and Derivatives Association Fix (“USD ISDAFIX” or the “benchmark”), a leading global benchmark referenced in a range of interest rate products, to benefit the Bank’s derivatives positions.

ISDAFIX rates and spreads are published daily and are meant to indicate the prevailing mid-market rate, at a specific time of day, for the fixed leg of a standard fixed-for-floating interest rate swap.² They are issued in several currencies. USD ISDAFIX rates and spreads are published for various maturities of U.S. Dollar-denominated swaps, including 1-year to 10-years, 15-years, 20-years, and 30-years. The most widely used USD ISDAFIX rates and spreads, and the ones at issue in this Order, are those that are intended to indicate the prevailing market rate as of 11:00 a.m. Eastern Time. The 11:00 a.m. USD ISDAFIX rate is used for cash settlement of options on interest rate swaps, or swaptions, and as a valuation tool for certain other interest rate products. For example, USD ISDAFIX was used during the Relevant Period in settlement of interest rate swap futures contracts traded on the Chicago Mercantile Exchange (“CME”) and as a component in the calculation of various proprietary interest rate indices and structured products.

During the Relevant Period, USD ISDAFIX was set each day in a process that began at 11:00 a.m. Eastern Time with the capture and recording of swap rates and spreads from a U.S.-based unit of a leading interest rate swaps broking firm (“Swaps Broker”). Swaps Broker disseminated rates and spreads captured in this “snapshot” or “print” – as it was referred to by traders and brokers – as references to a panel of banks. The banks then made submissions to Swaps Broker. Each bank’s submission was supposed to reflect the midpoint of where that dealer would itself offer and bid a swap to a dealer of good credit as of 11:00 a.m. Eastern Time. Most banks on the panel, including Barclays, usually submitted Swaps Broker’s reference rates and spreads as captured in the snapshot. As a result, after an averaging of the submissions, the reference rates and spreads became the published USD ISDAFIX almost every day.

A Barclays interest rate options trader (“Options Trader 1”) once referred in an email to the risk that “sometimes isdafix is manipulated,” and in fact, Barclays, through Options Trader 1 and others at the Bank, on many occasions during the Relevant Period attempted to manipulate USD ISDAFIX rates through its trading at the 11:00 a.m. fixing and by making submissions to Swaps Broker that were skewed to benefit derivatives positions held by Barclays. Barclays’ unlawful conduct involved multiple traders, including certain desk heads during the Relevant Period.

² In 2014, the administration of ISDAFIX changed, and a new version of the benchmark is published under a different name by a new administrator using a different methodology.

First, certain Barclays traders bid, offered, and executed transactions in targeted interest rate products, including swap spreads, at the critical 11:00 a.m. fixing time with the intent to affect the reference rates and spreads captured by Swaps Broker in the “print” sent to submitting banks, and thereby to affect the published USD ISDAFIX. As captured in emails and audio recordings, when Barclays had derivatives positions settling or pricing against USD ISDAFIX, traders discussed with one another and with Swaps Broker employees their intent to move USD ISDAFIX in whichever direction benefitted their positions. Traders and brokers described the notional amounts traders were willing to spend to influence USD ISDAFIX as “ammo” or as amounts the traders could “burn,” “waste,” or “use” to “get the print” or “affect” the “fix.”³

Second, certain traders at Barclays attempted to manipulate USD ISDAFIX by making false submissions for Barclays as a panel bank to Swaps Broker, skewing the rates and spreads submitted in the direction that could have moved the USD ISDAFIX setting to benefit the Bank’s trading positions. A bank’s derivatives trading positions or profitability are not legitimate or permissible factors on which to base submissions in connection with a benchmark. Yet on many occasions in 2007 and 2008 and on occasion later in the Relevant Period, Barclays traders made USD ISDAFIX submissions higher or lower for the purpose of benefitting swaption or swaps positions priced or valued against the benchmark. These submissions were false, misleading, or knowingly inaccurate because they did not report where Barclays would itself bid or offer interest rate swaps to a dealer of good credit absent a desire to manipulate USD ISDAFIX, but rather reflected prices that were more favorable to the Bank on specific positions. At times, Barclays made such submissions in conjunction with its illegitimate attempts to manipulate the benchmark through trading to increase the likelihood that USD ISDAFIX rates would move in a beneficial direction.

* * *

In accepting Respondents’ Offer, the Commission recognizes Barclays’ significant cooperation during the investigation of this matter by the CFTC’s Division of Enforcement (“Division”), which included promptly reporting on significant evidence and providing important information and analysis to the Division that helped the Division undertake its investigation efficiently and effectively. The Commission also recognizes that Barclays commenced significant remedial action to strengthen the internal controls and policies relating to all benchmarks, including ISDAFIX, prior to the Division’s investigation.

The Commission also notes that the civil monetary penalty imposed on Barclays reflects Barclays’ early resolution of this matter.

B. Respondents

Barclays PLC is a British banking and financial services company headquartered in the United Kingdom (“U.K.”). It has operations in over 50 countries and territories including the United States.

³ Unless otherwise indicated, all of the quotations in this Order are drawn from audio recordings of trader and/or broker telephone lines.

Barclays Bank PLC is a global banking and financial services company based in the U.K. that is engaged in retail and commercial banking, credit cards, investment banking, wealth management, and investment management services. It is wholly owned by Barclays PLC and has offices in New York, New York.

Barclays Capital Inc. is a wholly owned subsidiary of Barclays PLC and engages in investment banking, wealth management, and investment management services. It has been registered with the Commission as a Futures Commission Merchant since 1990, an approved Exempt Foreign Agent since 1992, a Commodity Pool Operator and Commodity Trading Advisor since 2009, and an approved swap firm since 2012. It maintains a business address and an active trading office in New York, New York.

C. Facts

1. USD ISDAFIX Setting

ISDAFIX rates and spreads are benchmarks that indicate prevailing market rates for “plain-vanilla” interest rate swaps.⁴ The 11:00 a.m. USD ISDAFIX was set during the Relevant Period using a combination of swap spread trade data from Swaps Broker,⁵ electronic trading in U.S. Treasuries and Eurodollars, and submissions from a panel of swap dealer banks, including Barclays.

Swaps Broker’s medium-term USD swaps desk (“MTS Desk”) functioned much like a traditional futures trading pit. Brokers on the desk sat (or stood) together and each serviced a number of major swap dealer banks, to whom they were connected throughout the trading day by direct phone lines and speaker boxes. The brokers communicated their clients’ bids and offers by open outcry to the entire MTS Desk and all of the brokers simultaneously. Any client could accept a bid or offer. Once a broker confirmed that a client was “hitting” a bid, “lifting” an offer, or was otherwise “done” in a designated notional amount (either a minimum default amount or a greater amount), the trade between the counterparties was executed and the counterparties received a confirmation of the trade. Barclays’ interest rate swaps and options traders primarily worked with one broker on the MTS Desk (“Broker 1”), but at times other Swaps Broker employees, including brokers from Swap Broker’s short-term swaps desk, worked with Barclays.

⁴ The term “swap” is defined in CEA Section 1a(47). Here, a “plain-vanilla” interest rate swap is generally an exchange of fixed payments for floating payments, wherein one party to a swap pays a fixed rate on a set notional amount (the party who “pays fixed” is said to have “bought” the swap, or is “long” the swap) and the other party pays a floating rate generally tied to three-month LIBOR (the party who “receives fixed” is said to have “sold” the swap, or is “short” the swap). The “maturity” or “tenor” of a swap refers to the number of years over which counterparties exchange payments.

⁵ An interest rate swap spread trade consists of a fixed-for-floating interest rate swap and an offsetting trade in U.S. Treasuries of the same tenor, which allows a party to hedge part of the interest rate risk associated with the fixed-for-floating swap. The difference in basis points between the U.S. Treasury yield and the swap rate constitutes the “spread” quoted in a spread trade. The party who “receives fixed” in a swap and sells U.S. Treasuries to hedge is “short” spreads or has “sold” spreads, while a party who “pays fixed” in a swap and buys Treasuries to hedge is “long” spreads or has “bought” spreads.

Swaps Broker published a live feed of transaction data for USD interest rate swap spreads, swap rates, and U.S. Treasury yields and prices to an electronic screen, known as the “19901 screen,” accessible through a subscription-based market news service. The 19901 screen reflected the levels at which those products were trading through the MTS Desk (for swap spreads and swap rates) and Swaps Broker’s proprietary electronic bond trading platform (for U.S. Treasuries). The 19901 screen is a reference used widely throughout the financial industry by swap dealer banks, hedge funds, asset managers, businesses, and other participants in interest rate markets. During the Relevant Period, levels displayed on the 19901 screen at precisely 11:00 a.m. were critical because they were used to set USD ISDAFIX.

To set USD ISDAFIX rates for the 2-year through 30-year maturities, Swaps Broker first generated reference rates and spreads from the snapshot of 11:00 a.m. screen prices, reflecting either the last traded spread or the mid-point between the most recent executable bid and offer. Swaps Broker’s reference rates, for all maturities except the 1-year, were the sum of the reference spread and the 19901 screen’s U.S. Treasury yield in the corresponding maturity. To generate the 1-year reference rate (for which there was no associated swap spread), Swaps Broker utilized a combination of Eurodollar futures yields (based on trading on CME’s Globex platform) and broker “sentiment,” which was intended to reflect prevailing rates for 1-year swaps based on trading through Swaps Broker’s short-term swaps desk.

Minutes after the 11:00 a.m. snapshot of the 19901 was taken, Swaps Broker distributed its reference rates and spreads to a panel of 14 or more contributing banks, which either accepted and submitted the reference rates and spreads as their own or submitted adjusted levels. Each bank, including Barclays, was expected to submit “the mean of where that dealer would itself offer and bid a swap in the relevant maturity for a notional equivalent amount of USD \$50 million or whatever amount is deemed market size in that currency for that tenor to an acknowledged dealer of good credit in the swap market.”⁶ Banks could change the prices for all rates and spreads across all maturities in their submissions, or change any subset, including any single rate or spread. Alternatively, a panel bank could make no submission at all. After a quorum of contributing banks made their submissions, a calculation agent eliminated the highest and lowest submissions (known as “topping and tailing”) and averaged the remaining submissions. The submission and calculation process was generally completed in the half hour following 11:00 a.m., after which the results were accessible to the public through a subscription-based news service.

In practice, most panel banks accepted Swaps Broker’s reference rates and spreads as their default submissions. Thus after “topping and tailing,” Swaps Broker’s reference rates and spreads usually became the final published USD ISDAFIX benchmarks. Barclays traders often contacted Swaps Broker’s MTS Desk just after 11:00 a.m. to find out where the print came out, because they understood that it usually became the final published USD ISDAFIX rate. As one Barclays interest rate options trader (“Options Trader 2”) stated in an April 2007 conversation with a broker, referring to Swaps Broker’s “suggested” rate, “I would say nine and a half times out of ten it’s the rate that’s published.”

⁶ See ISDA, ISDAFIX, <https://web.archive.org/web/20140209180148/http://www2.isda.org/asset-classes/interest-rates-derivatives/isdafix/> (last accessed May 11, 2015).

2. Barclays' Role in USD ISDAFIX Setting

Throughout the Relevant Period, Barclays was one of the panel banks that submitted rates and spreads for the determination of USD ISDAFIX. Barclays made its daily USD ISDAFIX submissions through the New York Interest Rate Swaps Desk (the "NY Swaps Desk") housed in Barclays Capital Inc. The NY Swaps Desk was a market-making desk that traded fixed-for-floating interest rate swaps and a variety of other products. Barclays acted as counterparty to clients in many interest rate swap transactions and the derivatives instruments traded by the NY Swaps Desk were used to hedge the desk's interest rate risk and also to generate a profit for the desk.

Because the NY Swaps Desk had primary responsibility for the U.S. Dollar swaps business, the NY Swaps Desk was responsible for Barclays' USD ISDAFIX submissions. For much of the Relevant Period, the heads of the NY Swaps Desk delegated ISDAFIX submissions to a junior trader on the desk. At times during the Relevant Period, the NY Swaps Desk did not have an employee assigned to make submissions and, for periods of time, Barclays made no submission at all.

During most of the Relevant Period, Barclays did not have specific internal controls or procedures, written or otherwise, regarding how USD ISDAFIX submissions should be determined or monitored. ISDAFIX submitters received no formal training on making ISDAFIX submissions, and the Bank did not require submissions to be documented during the Relevant Period.

3. Barclays' Positions with Exposure to USD ISDAFIX

Barclays traders had two primary reasons to attempt to manipulate the benchmark: one was to maximize profit (or minimize loss) for the New York Interest Rate Options Desk ("NY Options Desk") in connection with swaption cash settlements; the other was to maximize profit (or minimize loss) for the NY Swaps Desk in connection with occasional intrabank "ISDAFIX trades" related to a proprietary index product developed by Barclays.

a. NY Options Desk Swaption Cash Settlements

Throughout the Relevant Period, traders on Barclays' NY Options Desk, at times in coordination with the NY Swaps Desk, attempted to manipulate USD ISDAFIX in order to benefit their derivatives positions, by increasing their payments from counterparties or decreasing payments to counterparties in cash-settled interest rate swaptions. A so-called "European swaption," one of the primary products traded by the NY Options Desk, is an option to enter into a plain-vanilla fixed-for-floating interest rate swap, which must be exercised at 11:00 a.m. on a specified "expiry" date in the future at a pre-agreed fixed "strike" rate. A swaption can be exercised by "physical" delivery of the underlying swap or by cash settlement. A swaption that expired "in-the-money" would usually physically settle and, on many days, the NY Options Desk did not have any swaption cash-settle. Swaption cash settlements denominated in U.S. Dollars are typically calculated based on USD ISDAFIX rates according to a formula which measures the difference between the relevant USD ISDAFIX rate on the expiry date and the strike rate of the swaption.

Attempts to move USD ISDAFIX rate in Barclays' favor, if successful, would hurt the Bank's counterparties in cash settlement, as well as any other market participants who had positions referencing USD ISDAFIX on a given day that were directionally equivalent to Barclays' counterparty in the same maturity. A small movement of the benchmark higher or lower (e.g., one basis point or less) could result in meaningful gain for the Bank on its swaption cash settlements. As a Barclays options trader ("Options Trader 3") observed, "[i]t only takes a few hundred million [notional amount of swap spread trades] to move the spreads like a bip [basis point] or two bips."

b. NY Swaps Desk "ISDAFIX Trades"

Traders on the NY Swaps Desk had their own reasons to attempt to manipulate USD ISDAFIX rates. Specifically, from time to time during the Relevant Period, the NY Swaps Desk entered into intrabank swap transactions priced at USD ISDAFIX levels with Barclays' London-based Global Interest Rate Exotics Desk (the "London Exotics Desk"). The London Exotics Desk entered into these internal trades opposite the NY Swaps Desk in order to hedge its exposure under client-facing trades that referenced proprietary indices developed by Barclays called TrendStar and TrendStar+ ("TrendStar Trades"). On the days when the London Exotics Desk placed these orders with the NY Swaps Desk, it requested the trade in advance of the USD ISDAFIX setting. Some Bank traders called these "ISDAFIX trades."

On occasions when the NY Swaps Desk knew it would be receiving the USD ISDAFIX rate from the London Exotics Desk, the NY Swaps Desk traders wanted the rate to set higher so that they could receive a higher fixed rate on the swap from the London Exotics Desk. Likewise, on occasions when the NY Swaps Desk knew it would be paying the USD ISDAFIX rate, traders wanted the rate to set lower, so that they could pay a lower fixed rate on the swap.⁷ For every fraction of a basis point that the NY Swaps Desk could successfully move the relevant USD ISDAFIX rate to its advantage, the TrendStar indices would move to the disadvantage of Barclays' clients in their TrendStar Trades facing the London Exotics Desk.

4. Means Employed in Attempts to Manipulate USD ISDAFIX

Barclays swaps and options traders understood and employed two primary means in attempts to manipulate USD ISDAFIX rates:

- First, Barclays traders bid, offered, and/or executed swap spread trades at and around Swaps Broker's 11:00 a.m. print to affect prices on the 19901 screen and thereby increase or decrease Swaps Broker's reference rates and spreads and influence the final published USD ISDAFIX. As one Barclays swaps trader ("Swaps Trader 1") remarked on March 7, 2007, USD ISDAFIX was "fucking random" and "what happens at eleven is the bloody thing moves like half a basis point up and down because everybody's trying to bang the screen."

⁷ On two occasions, there is evidence that Barclays swaps traders also attempted to manipulate on-exchange Eurodollar futures at 11:00 a.m. to advantage the Bank in connection with early-terminating swaps. As noted above, in the 1-year maturity, Swaps Broker used Eurodollar futures yields at 11:00 a.m. to generate the reference rate sent to USD ISDAFIX submitting banks.

- Second, by communicating with the Bank’s USD ISDAFIX submitters on the NY Swaps Desk or directly with Swaps Broker, Barclays traders caused the Bank to make higher or lower submissions intended to affect the final published benchmark. As Swaps Trader 1 explained to another Barclays trader by instant message in March 2007: “we can put our fixings i[n] at a certain level . . . its still an average of several banks but we will put our level in at whatsoever [sic] rate u want.”⁸

Whichever the means employed, the goal was the same – to move USD ISDAFIX in the direction that favored Barclays on specific trading positions at the expense of its counterparties and clients.

a. Barclays’ Improper Trading Conduct

Barclays’ primary means of attempting to manipulate USD ISDAFIX was to bid, offer, and trade swap spreads at and around Swaps Broker’s 11:00 a.m. print, in a manner designed to move USD ISDAFIX rates in a direction that would benefit the Bank. Barclays traders attempted to move Swaps Broker’s reference rates and spreads by a quarter basis point or more with a single bid, offer, or trade of minimum market size (which varied by maturity) or with a series of bids, offers, or trades.

Traders from the NY Swaps and Options Desks, and their brokers, regularly referred to trades or notional amounts executed for the purpose of influencing USD ISDAFIX as “ammo” or amounts the traders were willing to “spend,” “burn,” “waste,” or “use” to “get the print” or “affect” the “fix.” On May 8, 2007, Broker 1 described typical communications with Options Trader 2: “every time that I, we try to get a fix, I say to him, what do you need, and how much do you have to burn? Because it’s only how much do you have to burn is the, is the real point.”

Early in the Relevant Period, traders and brokers explicitly discussed traders’ intent to manipulate USD ISDAFIX. For example, in 2007, Broker 1 told Options Trader 2: “If you want to affect it at eleven, you tell me which way you want to affect it we’ll, we’ll attempt to affect it that way. In November 2008, Swaps Trader 1 told Broker 1, “I want a low ISDAFIX in 2s” and “I don’t want to burn anything.” Over time, an understanding developed between traders and brokers and their communications became less explicit. By April 2011, Options Trader 1 needed only to bid swap spreads in the minute before 11:00 a.m., and Broker 1 immediately understood Options Trader 1’s intent, asking, “You want the screen up? Is that the idea?” “Yes,” the trader replied.

⁸ Barclays traders also discussed, and on at least a few occasions attempted, manipulation through other means, including bidding, offering, and/or executing trades in U.S. Treasuries on Swaps Broker’s electronic bond trading platform (for 2-year through 30-year maturities) or Eurodollar futures on CME’s Globex platform (for the 1-year maturity), at and around 11:00 a.m., to increase or decrease Swaps Broker’s reference rates and spreads and influence the final published USD ISDAFIX. In April 2007, Options Trader 2 explained to another trader his understanding that trading CME’s Eurodollar futures “strip,” referring to the first four quarterly maturities, could influence the 1-year USD ISDAFIX: “if you wanna affect this thing you need to fucking hit the strip or lift the strip.” Options Trader 2 further remarked in regard to other maturities that “[t]he only way I affect the screen is by trading [Swaps Broker’s electronic bond trading platform] and hitting or lifting spreads.”

Barclays traders were willing to “burn” or “waste” trades because they expected to benefit their cash settlements to an extent that would likely exceed, but at least cover, any trading losses. Options Trader 2 once explained to a broker why a trader would “spend” some trades for the benefit of a larger cash settlement:

If I’ve got ten billion 1-years . . . and I trade two and a half billion and I move it a quarter [basis point] in my favor, how do you think that works out? I’m willing to spend a quarter of the, of the risk to get the print for the other three quarters, okay?

To affect the USD ISDAFIX print at minimal cost, traders carefully timed their trading activity to be the last screen-moving event before the 11:00 a.m. print. On one occasion in 2008, for example, Options Trader 1 told Broker 1: “Hey, at eleven I’m going to try to hit the 5-year spreads down, but I have no ammo so . . . if it’s a wide market, I’m just going to try to hit it down.” Broker 1 responded: “you know what, then right at eleven I’m just gonna, just, just scream out, do you have like a hundred at least?” On another occasion in 2012, in connection with an ISDAFIX trade, a desk head (“Swaps Trader 2”) made clear his desire to not “spend” any of his “ammunition”: “At 11 o’clock, I have to get low print in 10-year spreads.” He added: “when I say ‘hit it,’ right, you can spend, um, two hundred fifty [million] 10-years in ammunition. I really don’t want to spend it . . . but if you can keep it at 8 . . . it will be perfect.” In the seconds before 11:00 a.m., Swaps Trader 2 instructed, “do it now,” at which time the broker yelled out: “10s down! 10s down!”

According to one Barclays trader on the NY Swaps Desk, attempting to get USD ISDAFIX to set higher or lower was a part of traders’ hedging strategy.⁹ Thus, even when traders had the opportunity to hedge risk by trading swap spreads internally or at other brokers, they sought to trade through Swaps Broker because only Swaps Broker trades could affect USD ISDAFIX. For example, on February 24, 2010, Options Trader 3 told his supervisor that he had asked the NY Swaps Desk to execute trades through Swaps Broker at 11:00 a.m, but a swaps trader had insisted on doing the trade internally at Barclays. As a result, Options Trader 3 said, a desk head at the Bank later told a senior swaps trader: “instead of trading with [the NY Swaps Desk], we need to be able to, to push spreads in the market to get the fix where we want it.”

Barclays traders distinguished between ordinary trades and trades intended – both in timing and in price – to attempt to manipulate USD ISDAFIX. For example, in April 2009, Broker 1 asked Options Trader 1 whether he was trading to affect USD ISDAFIX or for another

⁹ Barclays traders referred to trades that they made around 11:00 a.m. for risk management purposes as hedging. When swaptions cash-settled, changes in the NY Options Desk’s risk position could potentially require traders to execute hedging trades, depending on a variety of factors, including the risk profile of other positions and whether the desk wanted to take on the risk resulting from a cash settlement at expiry. Likewise, with so-called “ISDAFIX trades,” when the NY Swaps Desk entered swaps facing the London Exotics Desk at USD ISDAFIX levels, the NY Swaps Desk took on new risk, which again, depending on a variety of factors, the desk might have reason to hedge. Irrespective of whether the NY Options Desk and NY Swaps Desk traders had an interest in hedging, they engaged in attempted manipulation when they placed bids and offers or executed trades around 11:00 a.m. with the improper intent to move the USD ISDAFIX rate in Barclays’ favor.

reason: “are you gonna want to affect this at all or you don’t care?” Options Trader 1 replied: “no, I don’t want to affect it, I do have to hedge it though.” By contrast, in August 2008, Broker 1 asked a Barclays swaps trader (“Swaps Trader 3”) about a bid in swaps spreads: “did you want to affect the fix or did you just want to buy ‘em?” Swaps Trader 3 replied: “no, no, he wanted to affect the fixing.”

b. Barclays’ False, Misleading, or Knowingly Inaccurate Submissions

Barclays traders also attempted to manipulate USD ISDAFIX by causing the Bank to make false, misleading, or knowingly inaccurate submissions to Swaps Broker concerning swap rates and spreads. As one swaps trader explained to the USD ISDAFIX submitter in April 2007:

The options guys care where the 30-year is today, okay . . . So they want it lower . . . what you are going to do, just put in all the rates wherever . . . Put the 30-year rate at like five point four five five [5.455], okay? . . . They have options that expire and they depend on these rates and they get set at a certain level.

In another example, in August 2008, an ISDAFIX submitter who was out of the office instructed another trader to “ask [Options Trader 1] if he needs anything for ISDA, then submit.”

Directions from the NY Options Desk regarding submissions were, according to one swaps trader, loudly shouted across the desks where numerous people on the trading floor could have heard them. At times, Barclays traders on the NY Options Desk made submissions directly to Swaps Broker by telephone, only in those maturities to which the Bank had financial exposure. Multiple traders engaged in this conduct during the Relevant Period. It occurred in many instances in 2007 and 2008, and on occasion later in the Relevant Period.

5. Examples of Attempted Manipulation to Benefit the NY Options Desk in Swaption Cash Settlements

During the Relevant Period, traders on the NY Options Desk, at times with the assistance of the NY Swaps Desk, used various means in attempts to move USD ISDAFIX higher or lower, in order to get more from, or pay less to, their counterparties in swaption cash settlements. Following are additional specific examples of communications of Barclays traders relating to their attempts to manipulate USD ISDAFIX.

- On June 25, 2007, the NY Options Desk had a cash settlement on a 5-year swaption of \$635 million notional. Barclays traders on multiple desks coordinated to employ three methods of manipulation in an attempt to maximize the amount paid to Barclays in the swaption cash settlement. First, at approximately 10:50 a.m., Swaps Trader 1 contacted Broker 1 on behalf of the NY Options Desk, and instructed the broker, “don’t let ‘em go down,” referring to 5-year swap spreads. As 11:00 a.m. approached, he told the broker: “for the eleven o’clock fix I need to lift 5s up,” “I want to keep it up,” and “[i]f it gets hit down, you hit it right back up, don’t let it go down.” Swaps Trader 1 told the broker, “I can burn like, four, five hun-, four hundred [million notional].” After trading only \$200 million of 5-year swap spreads, and withdrawing his offer seconds before 11:00 a.m., he

said to the broker: “We got it right? We got the fix, good job.” Second, in parallel, also in the minutes leading up to 11:00 a.m., Options Trader 1 emailed traders on Barclays’ U.S. Treasuries desk: “I have an exercise at 11am this morning, I will need to sell 635 5s, but I want to push the screens down at 11, as much as . . . you can, so that I can get a better 11 am print.” Pushing the 5-year U.S. Treasuries price down would increase the yield on those Treasuries and thereby increase the 5-year USD ISDAFIX. Lastly, another options trader (“Options Trader 4”) emailed the USD ISDAFIX submitter at approximately 10:54 a.m., instructing “We want higher 5s,” referring to the Bank’s 5-year USD ISDAFIX submission.

- On September 18, 2008, a Barclays swaps trader (“Swaps Trader 4,” then a supervisor of multiple trading desks), told Broker 1: “Okay, at eleven o’clock, we have an option settlement, okay, I have 200 10s of ammo . . . and I need to get the screen as high as possible.” Swaps Trader 4 then instructed the broker to buy swap spreads at higher, rather than lower levels: “don’t let him hit me down at a quarter,” he told the broker, “I want at least a half middle,” referring to the higher USD ISDAFIX print he was seeking. On this day, Barclays stood to receive more in cash settlements from its counterparties the higher the 10-year USD ISDAFIX.
- On May 6, 2009, at approximately 10:16 a.m., Swaps Trader 3 told Broker 1: “I’m gonna have something to do on the ISDA fixing,” and, referring to the 10-year maturity, “as low as possible, okay.” After engaging in trading activity consistent with Swaps Trader 3’s expressed intent, Broker 1 reported at approximately 11:01 a.m. that “it worked without having to waste anything.” Minutes later, the broker told the trader Swaps Broker’s reference rate in the 10-year maturity, which the trader said was “fantastic.” The broker nevertheless told the trader that he was “shading it down” for Barclays’ submission, which the trader said would be “fine.” Barclays had at least two swaptions cash-settling on this day in which the Bank would benefit from a lower 10-year ISDAFIX.
- On July 26, 2011, at approximately 10:59 a.m., Swaps Trader 3 told Broker 1 that Options Trader 1 “wants to keep 10-year spreads down. So, if you can, we don’t have much ammo, like a hundred; don’t let it go up to 9, hit it down.” Broker 1 replied: “I hear you. I’m just gonna lock ’em down at 11.” On this day, Barclays stood to receive more from its counterparties, in multiple cash settlements, with a lower 10-year USD ISDAFIX.

6. Examples of Attempted Manipulation to Benefit the NY Swaps Desk in “ISDAFIX Trades”

From time to time during the Relevant Period, Barclays’ NY Swaps Desk entered into interest rate swaps at ISDAFIX rates with the Bank’s London Exotics Desk as its counterparty. Traders on the NY Swaps Desk attempted to manipulate USD ISDAFIX to increase their opportunity to profit from these “ISDAFIX trades.” Following are just two examples of this misconduct.

- On September 10, 2008, at approximately 8:07 a.m., the London Exotics Desk contacted the NY Swaps Desk with an ISDAFIX trade order. As 11:00 a.m. approached, Swaps Trader 1 and Swaps Trader 4 (as noted, a supervisor of multiple trading desks) attempted to push down the 9-year and 10-year USD ISDAFIX rates and to push up the 2-year USD ISDAFIX rate, so that the NY Swaps Desk would pay lower rates and receive higher ones in the ISDAFIX trade.

At approximately 10:26 a.m., Swaps Trader 1 told Broker 1: “at eleven o’clock . . . we wanna get 9s and 10s down” and “also we wanna get 2s up.” He explained that he would “go in the short-end line with [Swaps Broker’s “Broker 2”] and get 2s up,” and that Swaps Trader 4 was “gonna come in” for the 9-year and 10-year maturities, where “we are gonna be the offer, yeah? Don’t . . . don’t move it up . . . we have some ammo.” Consistent with this plan, Swaps Trader 1 then told Broker 2: “At eleven o’clock, I want the ISDAFIX in the 2s as high as possible. So I’m gonna come in at like five minutes to eleven and try and bang – move 2-years up.” “I know [another bank] is on the offer,” he added, “but I have a bit of ammo.”

At approximately 10:57 a.m., Broker 1 told Swaps Trader 4 that 10-year swap spreads were 61.5 bid and 61.75 offered. Swaps Trader 4 replied, “Listen, I’m going to try to hit ’em down to 61.” The broker replied, “Oh, I don’t think you’re going to get there” and listed numerous buyers in the market. Swaps Trader 4 then instructed Broker 1 to “try and do as little as possible,” referring to the notional amount he was willing to spend to lower the 10-year spread. When Broker 1 suggested that Swaps Trader 4 may have to spend more, Swaps Trader 4 said that the broker could trade “up to” \$250 million and should “just keep them, keep them fucking locked up.” When the broker replied, “I don’t think two-fifty’s gonna hold it, quite honestly,” the trader replied, “okay, but all we need to do is hold it for ten seconds,” referring to the seconds before 11:00 a.m.

Just after 11:00 a.m., Swaps Trader 4 remarked to the broker, “we got it . . . Yeah, you got it at sixty one and a quarter, at 11.” The broker replied, “Oh god, I hope so, let me come right back. Let me go find out what I sold.” Later, after the final rates were published, Swaps Trader 6, who had observed this trading activity by his colleagues, remarked to Broker 2 about the 2-year tenor: “Yeah, you did well at the 11 o’clock fix, man,” and it “sounded like you were actually holding the spreads up with your hands; like, it felt like you were bench pressing them over your head.”

- On August 10, 2010, in another example, the London Exotics Desk placed an order at approximately 9:14 a.m. which gave the NY Swaps Desk incentive to push up the 10-

year USD ISDAFIX rate and push down the 2-year USD ISDAFIX rate. At approximately 10:43 a.m., a Barclays swaps trader (“Swaps Trader 5”) initiated the following conversation with Broker 1, making certain first that no one was listening on the line:

Swaps Trader 5: Could you pick me up?
Broker 1: I got you picked up.
Swaps Trader 5: Oh, okay. No one else is on the line, right?
Broker 1: No.
Swaps Trader 5: Alright, uh, I care about the elevens, okay.
Broker 1: Oh, great. What, okay, what do you wanna do and how much do you have to burn?
Swaps Trader 5: Yeah, so no one’s on the line right?
Broker 1: No, not at all.
Swaps Trader 5: Alright, um. So, I’m gonna want, uh, 10s higher and 2s lower, okay? So –
Broker 1: Okay.
Swaps Trader 5: Um, just, your discretion, I care more about 10s, but would care about both of ’em. Um, and have, uh, like two hundred [million] 10s and five hundred [million] 2-year spreads to use, okay?
Broker 1: Okay fine, you got it.

Closer to 11:00 a.m., the broker sought confirmation that the trader did not genuinely want to fill an order of \$200 million notional: “you prefer not to burn the two hundred or any part of it, right?” Swaps Trader 5 agreed, “yeah.” Broker 1 then traded on Barclays’ behalf in a manner consistent with Swaps Trader 5’s instructions.

IV.

LEGAL DISCUSSION

A. Jurisdiction

As set forth below, Sections 6(c), 6(d), and 9(a)(2) of the Act have long prohibited attempted manipulation of the prices of, or false reporting in regard to, *any* commodity in interstate commerce or for future delivery on or subject to the rules of any registered entity. 7 U.S.C. §§ 9, 13b, 13(a)(2) (2006). An interest rate benchmark, such as USD ISDAFIX, is a commodity, *see* Sections 1a(9) and (19) of the Act, 7 U.S.C. §§ 1a(9), (19) (2012); *see also* 7 U.S.C. §§ 1a(4), (13) (2006), and therefore may be subject to illegal attempted manipulation, whatever the manipulative means may be, or false reporting.

Here, Barclays’ attempted manipulation is also proscribed by the Act for the separate reason that the conduct involved swaps executed or traded on a Swaps Broker desk that operated in practice as a “trading facility” under the Act, *see* 7 U.S.C. § 1a(34) (2006) (defining trading facility); 7 U.S.C. §§ 2(d)(1)(B), 2(g)(3) (2006) (limiting jurisdictional exclusions to agreements, contracts, or transactions not executed or traded on a trading facility).

Lastly, as a result of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (“Dodd-Frank Act”), the Commission also has authority to initiate proceedings and impose sanctions for a broader range of manipulative conduct and false reporting, including in connection with any swap. *See* Sections 6(c)(1), 6(c)(1)(A), 6(c)(3), 6(d), and 9(a)(2) of the Act, 7 U.S.C. §§ 9(1), 9(1)(A), 9(3), 13b, 13(a)(2) (2012), and Commission Regulations 180.1 and 180.2, 17 C.F.R. §§ 180.1, 180.2 (2014). The Relevant Period encompasses conduct that occurred after the passage and effective date of the Dodd-Frank Act.

B. Respondents Attempted to Manipulate USD ISDAFIX

Section 9(a)(2) of the Act makes it unlawful for “[a]ny person to manipulate or attempt to manipulate the price of any commodity in interstate commerce, or for future delivery on or subject to the rules of any registered entity.” 7 U.S.C. § 13(a)(2) (2006). With respect to conduct on or after July 16, 2011, amended Section 9(a)(2) of the Act also makes it unlawful to manipulate or attempt to manipulate the price of “any swap.” 7 U.S.C. § 13(a)(2) (2012).

For conduct prior to August 15, 2011, Sections 6(c) and 6(d) of the Act authorize the Commission to serve a complaint and provide for the imposition of, among other things, civil monetary penalties and cease and desist orders if the Commission “has reason to believe that any person . . . has manipulated or attempted to manipulate the market price of any commodity, in interstate commerce, or for future delivery on or subject to the rules of any registered entity, . . . or otherwise is violating or has violated any of the provisions of [the] Act.” 7 U.S.C. § 9 (2006); *id.* § 13b (2006).

For conduct occurring on or after August 15, 2011, the Commission is authorized to serve a complaint and impose penalties and orders with regard to attempted manipulation in violation of the broader amended provisions of Sections 6(c)(1) and 6(c)(3) and the Commission regulations implementing those provisions. *See* Sections 6(c)(4)(A) and 6(d) of the Act, 7 U.S.C. §§ 9(4)(A), 13b (2012).

Sections 6(c)(1) and 6(c)(1)(A) of the Act prohibit the use or attempted use of any manipulative device, including false reporting, in connection with any swap or contract of sale of any commodity in interstate commerce, or for future delivery, 7 U.S.C. §§ 9(1), 9(1)(A) (2012), and Commission Regulation 180.1(a), 17 C.F.R. § 180.1(a) (2014), makes it “unlawful . . . , directly or indirectly, in connection with any swap, or contract of sale of any commodity in interstate commerce, or contract for future delivery on or subject to the rules of any registered entity, to . . . (1) [u]se . . . or attempt to use . . . any manipulative device; (2) [m]ake, or attempt to make, any untrue or misleading statement of a material fact or to omit to state a material fact necessary in order to make the statements made not untrue or misleading; (3) [e]ngage, or attempt to engage, in any act, practice, or course of business, which operates or would operate as a fraud or deceit upon any person; or, (4) [d]eliver or cause to be delivered, or attempt to deliver or cause to be delivered, for transmission through the mails or interstate commerce, . . . a false or misleading or inaccurate report concerning . . . market information or conditions that affect or tend to affect the price of any commodity in interstate commerce.”

Section 6(c)(3) of the Act prohibits the attempted manipulation of the price of any commodity in interstate commerce, 7 U.S.C. § 9(3) (2012), and Commission Regulation 180.2,

17 C.F.R. § 180.2 (2014), makes it “unlawful . . . directly or indirectly, to . . . attempt to manipulate the price of any swap, or of any commodity in interstate commerce, or for future delivery on or subject to the rules of any registered entity.”

To prove attempted manipulation under each of these provisions, the following two elements are required: (1) an intent to affect market price, and (2) an overt act in furtherance of that intent. *See In re Hohenberg Bros. Co.* [1975-77 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 20,271, at 21,477 (CFTC Feb. 18, 1977). To prove the intent element of attempted manipulation, the respondent must have “acted (or failed to act) with the purpose or conscious object of causing or effecting a price or price trend in the market that did not reflect the legitimate forces of supply and demand.” *In re Indiana Farm Bureau Coop. Ass’n*, [1982-1984 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 21,796, at 27,283 (CFTC Dec. 17, 1982). “[W]hile knowledge of relevant market conditions is probative of intent, it is not necessary to prove that the accused knew to any particular degree of certainty that his actions would create an artificial price. It is enough to present evidence from which it may reasonably be inferred that the accused ‘consciously desire[d] that result, whatever the likelihood of that result happening from his conduct.’” *Id.* (quoting *United States v. U.S. Gypsum Co.*, 438 U.S. 442, 445 (1978)). A profit motive may also be evidence of intent, although profit motive is not a necessary element of an attempted manipulation. *See In re DiPlacido* [2007-2009 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 30,970, at 62,484 (CFTC Nov. 5, 2008) (citing *In re Hohenberg Bros. Co.*, [1975-1977 Transfer Binder] Comm. Fut. L. Rep. (CCH) at 21,478), *aff’d sub. nom. DiPlacido v. CFTC*, 364 F. App’x 657 (2d Cir. 2009). It is also not necessary that there be an actual effect on price. *See CFTC v. Amaranth Advisors, L.L.C.*, 554 F. Supp. 2d 523, 533 (S.D.N.Y. 2008).

1. Respondents Attempted to Manipulate USD ISDAFIX Through Improper Trading Conduct

As evidenced by the communications among Barclays traders and between Barclays traders and their brokers, as well as their actual trading conduct, Barclays traders specifically intended to manipulate USD ISDAFIX by placing bids or offers or executing trades in the moments leading into 11:00 a.m. designed in a manner, including timing and pricing, to increase or decrease swap spreads at 11:00 a.m., with the intent to affect levels reported on the 19901 screen and USD ISDAFIX fixings. Moreover, the evidence reflects that the traders intended such trading conduct to affect the fixings in order to benefit Barclays’ trading positions against the Bank’s counterparties.

The Barclays traders’ bids, offers, and executed trades in the moments leading into 11:00 a.m., which were intended to affect USD ISDAFIX, as well as the traders’ communications with each other and with their Swaps Broker brokers to plan and execute this trading conduct, constituted overt acts in furtherance of their intent to affect USD ISDAFIX. The Barclays traders thereby engaged in acts of attempted manipulation in violation of Sections 6(c), 6(d), and 9(a)(2) of the Act, 7 U.S.C. §§ 9, 13b, 13(a)(2) (2006). Additionally, with respect to conduct occurring on or after August 15, 2011, Barclays engaged in acts of attempted manipulation in violation of Section 6(c)(3), 7 U.S.C. § 9(3) (2012), and Regulation 180.2, 17 C.F.R. § 180.2 (2014), and they used or attempted to use a manipulative device in violation of Sections 6(c)(1) and 6(c)(1)(A), 7 U.S.C. §§ 9(1), 9(1)(A) (2012), and Regulation 180.1(a), 17 C.F.R. § 180.1(a) (2014).

2. **Respondents Attempted to Manipulate USD ISDAFIX Through False, Misleading, or Knowingly Inaccurate Submissions**

As evidenced by communications among Barclays traders, as well as Barclays' USD ISDAFIX submissions themselves, Barclays traders specifically intended to affect the rate at which USD ISDAFIX was set by making false, misleading, or knowingly inaccurate submissions to Swaps Broker for inclusion in the calculation of the daily rates. At times during the Relevant Period, Barclays submitted market information, specifically rates that were supposed to reflect the mean of where Barclays would itself offer and bid a USD denominated swap in the relevant maturity to an acknowledged dealer of good credit, to Swaps Broker that were used as part of the process for determining the daily USD ISDAFIX rate for the various maturities. However, rather than submitting rates and spreads that reflected Barclays' honest view of the true costs of entering into a standard USD interest-rate swap in particular maturities, Barclays at times knowingly made submissions with the intent to move USD ISDAFIX rates higher or lower in order to benefit Barclays' trading positions. Through its false, misleading, or knowingly inaccurate submissions, Barclays attempted to manipulate USD ISDAFIX for numerous tenors.

The Barclays traders' oral and written requests for certain rates to be submitted which would benefit their trading positions, and the submissions resulting from those requests, constituted overt acts in furtherance of the traders' intent to affect USD ISDAFIX. By doing so, the Barclays traders engaged in acts of attempted manipulation in violation of Sections 6(c), 6(d), and 9(a)(2) of the Act, 7 U.S.C. §§ 9, 13b, 13(a)(2) (2012). Additionally, with respect to conduct occurring on or after August 15, 2011, the Barclays traders engaged in acts of attempted manipulation in violation of Section 6(c)(3), 7 U.S.C. § 9(3) (2012), and Regulation 180.2, 17 C.F.R. § 180.2 (2014), and they used or attempted to use a manipulative device in violation of Sections 6(c)(1) and 6(c)(1)(A), 7 U.S.C. §§ 9(1), 9(1)(A) (2012), and Regulation 180.1(a), 17 C.F.R. § 180.1(a) (2014).

C. **Respondents Made False, Misleading, or Knowingly Inaccurate Reports Concerning USD ISDAFIX in Violation of Section 9(a)(2) of the Act**

In addition to the prohibition on attempted manipulation contained in Section 9(a)(2) of the Act, that provision also makes it unlawful for any person "knowingly to deliver or cause to be delivered for transmission through the mails or interstate commerce by telegraph, telephone, wireless, or other means of communication false or misleading or knowingly inaccurate reports concerning crop or market information or conditions that affect or tend to affect the price of any commodity in interstate commerce." 7 U.S.C. § 13(a)(2) (2006); *see also United States v. Brooks*, 681 F.3d 678 (5th Cir. 2012); *United States v. Valencia*, 394 F.3d 352 (5th Cir. 2004); *CFTC v. Johnson*, 408 F. Supp. 2d 259, 267 (S.D. Tex. 2005).

From time to time during the Relevant Period, Barclays, through electronic and telephonic transmission of information to Swaps Broker, knowingly delivered or caused to be delivered the Bank's USD Dollar ISDAFIX submissions through the mails or interstate commerce. Barclays' submissions were also delivered through the mails or interstate commerce through daily dissemination and publication globally, including throughout the United States, of the official published rates for USD ISDAFIX, as determined by averaging the submissions of Barclays and other panel banks after "topping and tailing." Data on submissions themselves

were also disseminated. Barclays' daily USD ISDAFIX submissions contained market information concerning the mean of where Barclays would itself offer and bid a swap in the relevant maturity to an acknowledged dealer of good credit in the swap market absent intent to manipulate USD ISDAFIX. Such market information affected or tended to affect the prices of commodities in interstate commerce, including the daily fixing rates for USD ISDAFIX, as well as the on-exchange interest rate swap futures and other financial instruments which relied upon those rates.

From time to time during the Relevant Period, Barclays' USD ISDAFIX submissions constituted false, misleading, or knowingly inaccurate reports because they purported to reflect Barclays' honest view of the true costs of entering into a standard fixed-for-floating interest rate swap in particular tenors, but in fact reflected traders' desire to move USD ISDAFIX higher or lower in order to benefit their positions.

By using these impermissible factors in making its USD ISDAFIX submissions and without disclosing that it based its submissions on these impermissible factors, Barclays conveyed false, misleading, or knowingly inaccurate information that the rates it submitted were based on the prices at which Barclays would offer and bid swaps to an acknowledged dealer of good credit in the swaps market absent intent to manipulate USD ISDAFIX. Moreover, Barclays submitters knew that Barclays' USD ISDAFIX submissions contained false, misleading, or knowingly inaccurate information. By such conduct, Respondents violated Section 9(a)(2) of the Act, 7 U.S.C. § 13(a)(2) (2006).

D. Barclays PLC, Barclays Bank, and Barclays Capital Are Liable for the Acts of their Agents

Section 2(a)(1)(B) of the Act, 7 U.S.C. § 2(a)(1)(B) (2012), and Regulation 1.2, 17 C.F.R. § 1.2 (2014), provide that “[t]he act, omission, or failure of any official, agent, or other person acting for any individual, association, partnership, corporation, or trust within the scope of his employment or office shall be deemed the act, omission, or failure of such individual, association, partnership, corporation, or trust.” Pursuant to Section 2(a)(1)(B) of the Act and Commission Regulation 1.2, strict liability is imposed on principals for the actions of their agents. *See, e.g., Rosenthal & Co. v. CFTC*, 802 F.2d 963, 966 (7th Cir. 1986); *Dohmen-Ramirez & Wellington Advisory, Inc. v. CFTC*, 837 F.2d 847, 857-58 (9th Cir. 1988).

Barclays Capital Inc. is liable for the acts, omissions, and failures of any traders, managers, and submitters who acted as its employees and/or agents in the conduct described above. Barclays Bank and Barclays PLC, which own Barclays Capital Inc., are liable for the acts, omissions, and failures of Barclays Capital Inc. with respect to the conduct described above. Accordingly, as set forth above, Barclays PLC, Barclays Bank, and Barclays Capital Inc. violated Sections 6(c), 6(d), and 9(a)(2) of the Act, 7 U.S.C. §§ 9, 13b, 13(a)(2) (2006); Sections 6(c)(1), 6(c)(1)(A), 6(c)(3), 6(d), and 9(a)(2), 7 U.S.C. §§ 9(1), 9(1)(A), 9(3), 13b, 13(a)(2) (2012); and Regulations 180.1(a) and 180.2, 17 C.F.R. §§ 180.1(a), 180.2 (2014).

V.

FINDINGS OF VIOLATIONS

Based on the foregoing, the Commission finds that Respondents violated Sections 6(c), 6(d), and 9(a)(2) of the Act, 7 U.S.C. §§ 9, 13b, 13(a)(2) (2006), and for conduct occurring on or after August 15, 2011, Sections 6(c)(1), 6(c)(1)(A), 6(c)(3), 6(d), and 9(a)(2), 7 U.S.C. §§ 9(1), 9(1)(A), 9(3), 13b, 13(a)(2) (2012), and Regulations 180.1(a) and 180.2, 17 C.F.R. §§ 180.1(a), 180.2 (2014).

VI.

OFFER OF SETTLEMENT

Respondents, without admitting or denying the findings or conclusions herein, have submitted the Offer in which they:

- A. Acknowledge receipt of service of this Order;
- B. Admit the jurisdiction of the Commission with respect to this Order only and for any action or proceeding brought or authorized by the Commission based on violation of or enforcement of this Order;
- C. Waive:
 - 1. the filing and service of a complaint and notice of hearing;
 - 2. a hearing;
 - 3. all post-hearing procedures;
 - 4. judicial review by any court;
 - 5. any and all objections to the participation by any member of the Commission's staff in the Commission's consideration of the Offer;
 - 6. any and all claims that they may possess under the Equal Access to Justice Act, 5 U.S.C. § 504 (2012) and 28 U.S.C. § 2412 (2012), and/or the rules promulgated by the Commission in conformity therewith, Part 148 of the Commission's Regulations, 17 C.F.R. §§ 148.1-30 (2014), relating to, or arising from, this proceeding;
 - 7. any and all claims that they may possess under the Small Business Regulatory Enforcement Fairness Act of 1996, Pub. L. No. 104-121, §§ 201-253, 110 Stat. 847, 857-868 (1996), as amended by Pub. L. No. 110-28, § 8302, 121 Stat. 112, 204-205 (2007), relating to, or arising from, this proceeding; and
 - 8. any claims of Double Jeopardy based on the institution of this proceeding

or the entry in this proceeding of any order imposing a civil monetary penalty or any other relief;

- D. Stipulate that the record basis on which this Order is entered shall consist solely of the findings contained in this Order to which Respondents have consented in the Offer; and
- E. Consent, solely on the basis of the Offer, to the Commission's entry of this Order that:
1. makes findings by the Commission that Respondents violated Sections 6(c), 6(d), and 9(a)(2) of the Act, 7 U.S.C. §§ 9, 13b, 13(a)(2) (2006), and for conduct occurring on or after August 15, 2011, Sections 6(c)(1), 6(c)(1)(A), 6(c)(3), 6(d), and 9(a)(2), 7 U.S.C. §§ 9(1), 9(1)(A), 9(3), 13b, 13(a)(2) (2012), and Regulations 180.1(a) and 180.2, 17 C.F.R. §§ 180.1(a), 180.2 (2014);
 2. orders Respondents to cease and desist from violating Sections 6(c)(1), 6(c)(1)(A), 6(c)(3), 6(d), and 9(a)(2) of the Act, 7 U.S.C. §§ 9(1), 9(1)(A), 9(3), 13b, 13(a)(2) (2012), and Commission Regulations 180.1(a) and 180.2, 17 C.F.R. §§ 180.1(a), 180.2 (2014);
 3. orders Respondents to pay a civil monetary penalty in the amount of one hundred fifteen million U.S. dollars (\$115,000,000) plus post-judgment interest; and
 4. orders Respondents and their successors and assigns to comply with the conditions and undertakings consented to in the Offer and as set forth in Part VII of this Order.
- F. Respondents represent that they have already undertaken certain steps intended to make reasonable efforts to ensure the integrity of any submission to, and trading in connection with, certain benchmarks to which Barclays submits or submitted, including ISDAFIX and its successor benchmark (*see supra* footnote 2), including, but not limited to, the following:
1. Enhanced controls around the ISDAFIX submission process, including but not limited to:
 - a. Automation of the data submitted to the benchmark administrator;
 - b. Enhanced training and supervisory oversight, including by senior members of the submitting desk;
 - c. Implementation of record keeping of submissions and daily supervisory review; and
 - d. Enhancement of control framework and governance;

2. Mandating at least annual training for all employees on the submitting and trading desks relevant to ISDAFIX concerning appropriate market conduct;
3. Reviewing Barclays' business practices and systems and controls, which included remedial efforts across the bank, Compliance and front office levels. Among other projects that Barclays undertook:
 - a. An independent review of Barclays' business practices was conducted, which, among other things, led to the introduction of a new code of conduct which sets out the ethical and professional behaviors expected of employees;
 - b. The provision of guidance to swaps and options traders regarding the execution of risk management trades in relation to benchmark fixings;
 - c. With respect to its investment banking operations, significant work to strengthen the role of Compliance. The work has included increasing Compliance's visibility on board and management committees, developing a process and reporting framework to support monitoring and verification activity undertaken by Compliance, holding standardized and structured monthly business line meetings between Compliance and the Global Head of the business they cover, formalizing a breach review process to ensure consistent and effective treatment of Compliance policy breaches, enhancing and transitioning to a centralized model for trade surveillance and e-communications surveillance and increasing Compliance's budget for staff and training;
 - d. Barclays undertook work on Front Office Risks and Controls, a group that was established in December 2012 and acts as a single coordination point to focus Barclays' approach to risk and control within and across the Front Office. Barclays also undertook the development of a new Global Supervision policy, which was followed by a training program that all supervisors were required to complete by the end of Q3 2012 and the appointment of a Chief Controls Officer who is responsible for coordinating all control elements;
 - e. Barclays has conducted, and continues to conduct, significant reviews of risks relating to benchmarks and conflicts of interest, including:
 - i. A project designed to evaluate benchmark rates for which Barclays was engaged in a subjective submission process, and as a result of which Barclays exited 10 benchmark submissions, automated 7 benchmark submissions, and implemented additional supervisory procedures for 13 benchmark contributions; and

- ii. A forward looking project to define a control framework for potential economic conflicts of interest between Barclays and third parties that arise from trading activities across products, benchmarks and client order types.

Upon consideration, the Commission has determined to accept the Offer.

VII.

ORDER

Accordingly, IT IS HEREBY ORDERED THAT:

- A. Respondents shall cease and desist from violating Sections 6(c)(1), 6(c)(1)(A), 6(c)(3), 6(d), and 9(a)(2) of the Act, 7 U.S.C. §§ 9(1), 9(1)(A), 9(3), 13b, 13(a)(2) (2012), and Commission Regulations 180.1(a) and 180.2, 17 C.F.R. §§ 180.1(a), 180.2 (2014).
- B. Respondents shall pay a civil monetary penalty of one hundred fifteen million U.S. dollars (\$115,000,000), within ten (10) days of the date of entry of this Order (the "CMP Obligation"). If the CMP Obligation is not paid in full within ten (10) days of the date of entry of this Order, then post-judgment interest shall accrue on the CMP Obligation beginning on the date of entry of this Order and shall be determined by using the Treasury Bill rate prevailing on the date of entry of this Order pursuant to 28 U.S.C. § 1961 (2012). Respondents shall pay the CMP Obligation by electronic funds transfer, U.S. postal money order, certified check, bank cashier's check, or bank money order. If payment is to be made other than by electronic funds transfer, then the payment shall be made payable to the Commodity Futures Trading Commission and sent to the address below:

Commodity Futures Trading Commission
Division of Enforcement
ATTN: Accounts Receivables --- AMZ 340
E-mail Box: 9-AMC-AMZ-AR-CFTC
DOT/FAA/MMAC
6500 S. MacArthur Blvd.
Oklahoma City, OK 73169
Telephone: (405) 954-7262

If payment is to be made by electronic funds transfer, Respondents shall contact Nikki Gibson or her successor at the above address to receive payment instructions and shall fully comply with those instructions. Respondents shall accompany payment of the CMP Obligation with a cover letter that identifies the Respondents and the name and docket number of this proceeding. The Respondents shall simultaneously transmit copies of the cover letter and the form of payment to the Chief Financial Officer, Commodity Futures Trading

Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, D.C. 20581.

- C. Respondents and their successors and assigns shall comply with the following undertakings set forth in the Offer:

1. REMEDIATION

As set forth above in Section VI, paragraph F, Respondents represent that they have already undertaken and continue to undertake extensive remedial measures to implement and strengthen the Bank's internal controls and procedures relating to the fixing of interest-rate swaps benchmarks and related supervision of the Bank's swaps and options desks. With respect to Respondents' remediation efforts to the extent not already undertaken, Respondents undertake, for a period of three years, that:

- a. The Bank will continue to implement and improve its internal controls and procedures in a manner reasonably designed to ensure the integrity of the fixing of any interest-rate swap benchmark, including measures to identify and address internal or external conflicts of interest;
- b. The Bank's remediation improvements will include reasonable internal controls and procedures relating to:
 - A monitoring system designed to enhance the detection and deterrence of trading or other conduct potentially intended to manipulate directly or indirectly swap rates, including benchmarks based on interest-rate swaps;
 - periodic audits, at least annually, of the Bank's submissions to any benchmark based on interest-rate swaps, if any;
 - supervision of swaps and options desks' conduct that relates to any interest-rate swap benchmark;
 - routine and on-going training of all swaps and options desk personnel relating to the trading of any product that references a benchmark based on interest-rate swaps;
 - processes for the periodic but routine review of written and audio communications of all swaps and options traders and supervisors who are involved in the fixing of any benchmark based on interest-rate swaps with the review being documented and documentation being maintained for a period of three years; and

- continuing to implement a system for reporting, handling and investigating any suspected misconduct or questionable, unusual or unlawful activity relating to the fixing of any benchmark based on interest-rate swaps with escalation to compliance and legal, and with reporting of material matters to the executive management of Barclays and the Commission, as appropriate; the Respondents shall maintain the record basis of the handling of each such matter for a period of three years.
- c. Within 120 days of the entry of this Order, the Bank shall make a report to the Commission, through the Division, concerning its remediation efforts prior to and since the entry of this Order. Within 365 days of the entry of this Order, the Bank shall submit a report to the Commission, through the Division, explaining how it has complied with the undertakings set forth herein. The report shall contain a certification from a representative of the Bank's Executive Management, after consultation with the Bank's chief compliance officer(s) and any other applicable parties, that the Bank has complied with the undertakings set forth above, and that it has established policies, procedures, and controls to satisfy the undertakings set forth in the Order.

2. COOPERATION WITH THE COMMISSION

In this action, and in any investigation or other action instituted by the Commission related to the subject matter of this action, Respondents shall cooperate fully and expeditiously with the Commission, including the Division. As part of such cooperation, Respondents agree to the following for a period of three (3) years from the date of the entry of this Order, or until all related investigations and litigations in which the Commission, including the Division, is a party, are concluded, including through the appellate review process, whichever period is longer:

- a. Preserve all records relating to the subject matter of this proceeding, including, but not limited to, audio files, electronic mail, other documented communications, and trading records;
- b. Comply fully, promptly, completely, and truthfully with all inquiries and requests for non-privileged information or documents;
- c. Provide authentication of documents and other evidentiary material;
- d. Provide copies of non-privileged documents within the Bank's possession, custody, or control;

- e. Subject to applicable laws and regulations, make their best efforts to produce any current (as of the time of the request) officer, director, employee, or agent of the Bank, regardless of the individual's location, and at such location that minimizes Commission travel expenditures, to provide assistance at any trial, proceeding, or Commission investigation related to the subject matter of this proceeding, including, but not limited to, requests for testimony, depositions, and/or interviews, and to encourage them to testify completely and truthfully in any such proceeding, trial, or investigation; and
- f. Subject to applicable laws and regulations, make their best efforts to assist in locating and contacting any prior (as of the time of the request) officer, director, employee, or agent of the Bank;

Respondents also agree that they will not undertake any act that would limit their ability to cooperate fully with the Commission. The Bank will designate an agent located in the United States of America to receive all requests for information pursuant to these Undertakings, and shall provide notice regarding the identity of such Agent to the Division upon entry of this Order. Should the Bank seek to change the designated agent to receive such requests, notice of such intention shall be given to the Division fourteen (14) days before it occurs. Any person designated to receive such request shall be located in the United States of America.

3. PROHIBITED OR CONFLICTING UNDERTAKINGS

Should the Undertakings herein be prohibited by, or be contrary to, the provisions of any obligations imposed on Respondents by any presently existing, or hereinafter enacted or promulgated laws, rules, regulations, or regulatory mandates, then Respondents shall promptly transmit notice to the Commission (through the Division) of such prohibition or conflict, and shall meet and confer in good faith with the Commission (through the Division) to reach an agreement regarding possible modifications to the Undertakings herein sufficient to resolve such inconsistent obligations. In the interim, Respondents will abide by the obligations imposed by the laws, rules, regulations, and regulatory mandates. Nothing in these Undertakings shall limit, restrict or narrow any obligations pursuant to the Act or the Commission's Regulations promulgated thereunder, including, but not limited to, Regulations 1.31 and 1.35, 17 C.F.R. §§ 1.31, 1.35 (2014), in effect now or in the future.

4. PUBLIC STATEMENTS

Respondents agree that neither they nor any of their successors and assigns, agents, or employees under their authority or control shall take any action or make any public statement denying, directly or indirectly, any findings or conclusions in this Order or creating, or tending to create, the impression that this Order is

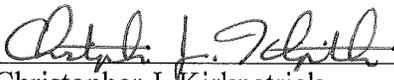
without a factual basis; provided, however, that nothing in this provision shall affect Respondents' (i) testimonial obligations, or (ii) right to take positions in other proceedings to which the Commission is not a party. Respondents and their successors and assigns shall undertake all steps necessary to ensure that all of their agents and/or employees under their authority or control understand and comply with this agreement.

5. PARTIAL SATISFACTION

Respondents understand and agree that any acceptance by the Commission of partial payment of Respondents' CMP Obligation shall not be deemed a waiver of their obligation to make further payments pursuant to this Order, or a waiver of the Commission's right to seek to compel payment of any remaining balance.

The provisions of this Order shall be effective as of this date.

By the Commission.



Christopher J. Kirkpatrick
Secretary of the Commission
Commodity Futures Trading Commission

Dated: May 20, 2015