

## Q&A With Bruno Langfritz – ACIFMA to Deliver Amicus Brief in Johnson Trial

www.profit-loss.com

August 2, 2018 in News, Around the World

Copyright © 2018 P&L SERVICES | All Rights Reserved



### **P&L: Why is ACIFMA speaking out now?**

BL: We have been monitoring this case in our Working Groups and noted the call by the defence team with regard to an Amicus Brief. Accordingly we have asked to see some further evidential materials and are looking to draft a response. This response will be sent out in my name.

### **P&L: What is it about the case that concerns the ACI and what does the verdict mean for its members?**

BL: My major concern is that at face value this case revolves around pre-trade hedging a large fixing transaction and questions the legitimacy of a bank following the correct risk management approach to such a deal. Also the deal was between a British bank and a British customer and predominantly executed in London with the customer advised by a second British bank. That this can lead to a territorial reach leading to a criminal trial in the New York district courts rather than the British courts is a worrying development for the market with potentially far reaching consequences for the US markets.

### **P&L: What impact do you think the decision can have growing forward?**

BL: Potentially the impact will be quite significant if customers want to continue to use the Fix for hedging their transactions. If banks feel, because of the legal verdict, they could not pre-trade hedge these orders, the market impact could be significant. The cost of fixing transactions would rise and potentially we could see unhelpful extreme exchange rate movements during the fixing window. This would not be conducive regarding consideration as to if your actions risk disrupting the market. It also raises profound issues for the concept of principal-to-principal trading.

### **P&L: How will this verdict impact the FX Global Code of Conduct, if at all, especially if upheld at appeal?**

BL: If the verdict is upheld at the appeal the GFXC would need to reconsider the advice and examples given in the FX Global Code concerning pre-trade hedging. Given the Code covers all market participants, those who use the Fix to hedge transactions will have to think carefully as to if that is appropriate mechanism, especially for larger amounts, going forward.

Consideration will have to be given as to if transacting FX orders within the reach of US jurisdiction is appropriate given the potentially different legal interpretation compared to other jurisdictions. If the appeal is not successful this could have huge implications in the use of ISDA agreements and the concept of principal to principal trading that underpins FX trading and we will have to think about the implications for the market.