

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

IN RE: INTEREST RATE SWAPS
ANTITRUST LITIGATION

This Document Pertains To:

ALL CLASS ACTION CASES

MDL No. 2704
Master Docket No. 16 MD 2704 (JPO)

Hon. J. Paul Oetken

**PLAINTIFFS' MEMORANDUM OF LAW IN SUPPORT OF MOTION FOR AN
ORDER PROVIDING FOR NOTICE TO THE SETTLEMENT CLASSES AND
PRELIMINARILY APPROVING THE PLANS OF ALLOCATION**

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Plaintiffs respectfully submit this memorandum in support of their Motion for an Order Providing for Notice to the Settlement Classes and Preliminarily Approving the Plans of Allocation under Federal Rule of Civil Procedure 23(c) and (e).

PRELIMINARY STATEMENT

Plaintiffs and Defendants¹ have reached proposed Settlements in this action that would resolve all claims in exchange for cash payments of \$71,000,000 for the benefit of the Settlement Classes.² The Court previously entered orders preliminarily approving the proposed Settlements, certifying the Settlement Classes, and appointing Co-Lead Counsel and class representatives. *See* ECF Nos. 1084, 1085.

As requested by Co-Lead Counsel at the time of preliminary approval of the Settlements, determinations related to notice to members of the Settlement Classes and the distribution of settlement funds were deferred. Plaintiffs now propose: (i) a Notice Plan to notify class

¹ The Credit Suisse defendants are referred to as the “Credit Suisse Settling Defendants.” The Bank of America Corporation; Bank of America, N.A.; Merrill Lynch, Pierce, Fenner & Smith Incorporated (n/k/a BofA Securities, Inc.); Barclays Bank PLC; Barclays Capital Inc.; BNP Paribas, S.A.; BNP Paribas Securities Corp.; Citigroup Inc.; Citibank, N.A.; Citigroup Global Markets Inc.; Citigroup Global Markets Limited; Deutsche Bank AG; Deutsche Bank Securities Inc.; The Goldman Sachs Group, Inc.; Goldman, Sachs & Co. LLC; Goldman Sachs Bank USA; Goldman Sachs Financial Markets, LP; Goldman Sachs International; JPMorgan Chase & Co.; JPMorgan Chase Bank, N.A.; J.P. Morgan Securities LLC; J.P. Morgan Securities plc; Morgan Stanley; Morgan Stanley Bank, N.A.; Morgan Stanley & Co. LLC; Morgan Stanley Capital Services LLC; Morgan Stanley Derivative Products Inc.; Morgan Stanley & Co. International plc; Morgan Stanley Bank International Limited; NatWest Group plc (f/k/a The Royal Bank of Scotland Group plc); NatWest Markets plc (f/k/a Royal Bank of Scotland plc); NatWest Markets Securities Inc. (f/k/a RBS Securities Inc.); UBS AG; and UBS Securities LLC defendants are referred to as the “Newly Settling Defendants.” Combined, the “Settling Defendants.”

² All capitalized terms not defined herein have the same meaning as in the “Credit Suisse Settlement Agreement” and the “New Settlement Agreement” (together the “Settlement Agreements”) the Court previously approved.

members of both Settlements and provide information regarding the claims process, and (ii) a Plan of Allocation for each Settlement distributing the respective Net Settlement Funds.

Notice Plan. Co-Lead Counsel and the Settlement Administrator Epiq Class Actions & Claims Solutions, LLC (“Epiq”) have developed an effective Notice Plan that includes direct notice by mail, supplemented by publication of summary notice in prominent and widely distributed national and global news outlets. Epiq also plans to provide robust online notice via online search initiatives targeted to various financial publications and newsletters, social media, and a dedicated settlement website. The proposed mail and publication notices (the “Notices”)—attached as Exhibits 1 (the “Long Form Notice”) and 3 (the “Summary Notice”) to the Declaration of Daniel Brockett, dated September 19, 2024 (“Brockett Declaration”), respectively—explain clearly and concisely the terms of the proposed Settlements, options for members of the Settlement Classes, and deadlines for exercising them. The Notices also explain the terms of the proposed Settlements, and provide further resources, including contact information for the Settlement Administrator and Co-Lead Counsel, should potential settlement class members have any questions.

Plans of Allocation. Plaintiffs’ proposed Plans of Allocation, attached as Exhibits 4 and 5 to the Brockett Declaration, have been drafted by experienced and informed counsel to efficiently and equitably distribute the settlement funds to qualified members of the Settlement Class. As described more fully in the Plans of Allocation themselves, class members will be allocated proceeds *pro rata* based on the notional value of their qualifying activity, adjusted by a factor accounting for legal risks associated with certain kinds of claims, based on transaction type and transaction date. As more fully detailed below, similar notional-value-and-risk based

plans of distribution in financial services antitrust class actions have been regularly approved in this District.

At this time, Plaintiffs seek *preliminary* approval of the proposed Plans of Allocation, which requires only that the Plans be sufficiently reasonable to be sent to members of the Settlement Classes for their consideration prior to the Fairness Hearing to be set by the Court. This will permit Plaintiffs to begin the process of providing notice of the Settlements and their terms to persons and entities believed to be potential members of the Settlement Class.

Proposed Order. The Proposed Order (Exhibit 6 to the Brockett Declaration) submitted with this memorandum approves the form and content of the Notices (Exhibits 1 and 3 to the Brockett Declaration, as noted above) and the proposed Proof of Claim and Release Form (the “Claim Form,” attached as Exhibit 2 to the Brockett Declaration); and finds that the procedures for distribution of the Notices and Claim Form and publication of the Notice constitute the best notice practicable under the circumstances and complies with the requirements of due process and Federal Rule of Civil Procedure 23.

The Proposed Order also sets a schedule and procedures for: mailing and publishing the Notices; requesting exclusion from the Settlements; objecting to the Settlements, the proposed Plans of Allocation, and/or Co-Lead Counsel’s forthcoming application for attorneys’ fees and expenses; submitting papers in support of final approval of the Settlements and Co-Lead Counsel’s application for attorneys’ fees and expenses; and the Fairness Hearing.

ARGUMENT

I. THE PROPOSED MANNER AND FORMS OF NOTICE SHOULD BE APPROVED

Federal Rule of Civil Procedure 23(e)(1) provides “[t]he court must direct notice in a reasonable manner to all class members who would be bound by the [proposed settlement].”

Fed. R. Civ. P. 23(e)(1)(B). Where a settlement class is to be certified under Rule 23(b)(3), “the court must direct to class members the best notice that is practicable under the circumstances, including individual notice to all members who can be identified through reasonable effort.”

Fed. R. Civ. P. 23(c)(2)(B).

There are no “rigid rules” that apply when determining the adequacy of notice for a class action settlement. Ultimately, the test for proposed notice to class members is reasonableness. *See In re GSE Bonds Antitrust Litig.*, 414 F. Supp. 3d 686, 702 (S.D.N.Y. 2019). Rule 23 “accords considerable discretion to a district court in fashioning notice to a class.” *In re Agent Orange Prod. Liab. Litig.*, 818 F.2d 145, 168 (2d Cir. 1987); *see also Manual for Complex Litigation* § 21.311 (4th ed. 2004) (“Determination of whether a given notification is reasonable under the circumstances of the case is discretionary.”). Accordingly, “[n]otice need not be perfect, but need be only the best notice practicable under the circumstances, and each and every class member need not receive actual notice, so long as class counsel acted reasonably in choosing the means likely to inform potential class members.” *In re Merrill Lynch & Co., Inc. Rsch. Repts. Sec. Litig.*, 2007 WL 313474, at *8 (S.D.N.Y. Feb. 1, 2007).

Plaintiffs respectfully submit that both (A) the proposed manner of notice and (B) the proposed form of notice are reasonable and constitute the best notice that is practicable under the circumstances and should be approved.

A. The Proposed Manner of Notice Should Be Approved

Plaintiffs here propose a robust Notice plan that would direct the best notice practicable. Plaintiffs’ proposed Notice plan seeks to reach the greatest number of Settlement Class members possible through a wide distribution in a variety of channels, including: individual notice to members of the Settlement Classes by mail; mail notice to likely nominee holders who acted on

behalf of the Settlement Classes; the use of a Summary Notice in widely circulated publications; the use of online notice to various financial websites; and the establishment of a dedicated settlement website, e-mail address for the administrator, a toll-free telephone number, and a postal mailing address.

Mail Notice Procedures. The Settlement Administrator will distribute the Long Form Notice and Claim Form via United States Postal Service First Class mail, postage prepaid.

The mailing program will use addresses from multiple sources. Addresses for mailing will be used from lists to be provided by Defendants to Co-Lead Counsel, which Defendants represent will constitute the reasonably available information they have. Moreover, Plaintiffs will send the Long Form Notice and Claim Packet to entities in a proprietary database Epiq maintains for use in antitrust and securities cases, which includes banks, brokers, and other entities likely to have engaged in relevant transactions on behalf of clients who would be members of the Settlement Classes. The notice contains instructions to forward the notice to their clients or provide their list of clients to Epiq for the purpose of sending individual notice. Declaration of Cameron R. Azari, dated September 19, 2024 (“Azari Decl.”) ¶¶ 10-14. Firms that maintain trading records for client accounts, and generate and distribute trading records to clients, are typically a reliable source from which to ascertain the names and addresses of additional potential class members in an administratively feasible manner.

In this way, Plaintiffs propose to provide individual notice of the Settlement Agreements to potential members of the Settlement Class “who can be identified through reasonable effort[s]” using Defendants’ data and other information. Fed. R. Civ. P. 23(c)(2)(B).

Summary Notice in Widely Circulated Media. In addition to the mail Notice, the Settlement Administrator will publish the Summary Notice in widely circulated newspapers and

on widely viewed financial websites of interest to potential members of the Settlement Classes. Specifically, the Settlement Administrator shall cause the Summary Notice, substantially in the form attached as Exhibit 3 to the Brockett Declaration, to be published once in *The Wall Street Journal*, the *Financial Times*, and *Investor's Business Daily (IBD) Weekly*. See Azari Decl. ¶¶ 15-16. Additionally, online banner notices will be placed on relevant financial-focused websites including *Yahoo! Finance*, *Investors.com*, and *WSJ.com*; a press release will be sent over *PR Newswire*; and sponsored internet search listings across additional websites via a targeted digital advertising buy collectively aimed to generate 28 million views nationwide and internationally that will be used to direct traffic to the settlement website. *Id.* ¶¶ 17-22. Plaintiffs believe Summary Notice in these publications and through a dedicated website will provide a valuable supplement to the already thorough individual mail Notice plan.

Settlement Website, Phone Contact Information, and Postal Mailing Address.

Plaintiffs will also engage the Settlement Administrator to establish a website dedicated to the Settlements at www.InterestRateSwapsAntitrustLitigation.com. *Id.* ¶¶ 23. This will enable any potential member of the Settlement Classes to easily access information about the proposed Settlements, including the notices and claims process, and to file claims. All documents related to the notices and claims process, including copies of the Long Form and Summary Notices, along with the Settlement Agreements and key case materials (such as the operative complaint and the Court's rulings on the motion to dismiss), will also be posted on the settlement website. The Settlement Administrator will also establish a toll-free telephone number and email and postal mailing addresses to answer potential settlement class members' questions.

Courts routinely approve multi-faceted notice programs like the one proposed by Plaintiffs here, that combine individualized mail notice and summary notice as components of

the plan.³ Plaintiffs therefore respectfully submit the proposed Notice plan summarized above, and further detailed in the Azari Declaration, satisfies the requirements of Rule 23(e) and 23(c)(2)(B), and should thus be approved by the Court.

B. The Proposed Forms of Notice Should Be Approved

“There are no rigid rules to determine whether a settlement notice to the class satisfies constitutional or Rule 23(e) requirements; the settlement notice must ‘fairly apprise the prospective members of the class of the terms of the proposed settlement and of the options that are open to them in connection with the proceedings’” in a manner understandable “by the average class member.” *Wal-Mart Stores, Inc. v. Visa U.S.A., Inc.*, 396 F.3d 96, 114 (2d Cir. 2005); *Guevoura Fund Ltd. v. Sillerman*, 2019 WL 6889901, at *12 (S.D.N.Y. Dec. 18, 2019) (“[N]otice is adequate if the average settlement class member understands the terms of the proposed settlement and the options they have.”).⁴

³ See, e.g., *In re Commodity Exchange, Inc. Gold Futures and Options Trading Litig.*, No. 14-md-02548, ECF No. 625 (S.D.N.Y. Jan. 13, 2022); *In re Patriot Nat’l, Inc. Sec. Litig.*, 2019 WL 5882171, at *1-*2 (S.D.N.Y. Nov. 6, 2019) (approving notice plan consisting of mail or e-mail notice to 13,530 potential settlement class members coupled with summary notice via publication in *Investor’s Business Daily* and *PR Newswire*); *GSE Bonds*, 414 F. Supp. 3d at 702 (approving notice plan consisting of mail and publication notice); *In re Credit Default Swaps Antitrust Litig.*, 2016 WL 2731524, at *5 (S.D.N.Y. Apr. 26, 2016) (“Class Counsel mailed notice packets to each of 13,923 identified Class members. . . . The Summary Notice was also published on January 11 in several important business publications . . . [and] [t]he [‘Settlement Administrator’] launched a website for the Settlement which posted the Settlement agreements, notices, court documents, and other information relevant to the Settlement.”); *In re Vitamin C Antitrust Litig.*, 2012 WL 5289514, at *2 (E.D.N.Y. Oct. 23, 2012).

⁴ See also *In re Payment Card Interchange Fee & Merch. Disc. Antitrust Litig.*, 330 F.R.D. 11, 58 (E.D.N.Y. 2019) (“Courts in [the Second] Circuit have explained that a Rule 23 Notice will satisfy due process when it ‘describe[s] the terms of the settlement generally,’ ‘inform[s] the class about the allocation of attorneys’ fees, and provide[s] specific information regarding the date, time, and place of the final approval hearing.’”).

“Settlement notices under Fed. R. Civ. P. 23 do not need to delve into excessive details about the specifics of the settlement and the legal claims of the parties”; rather, settlement notices “should be concise and simple.” *Guevoura*, 2019 WL 6889901, at *12. Ultimately, the notice must “enable class members to make an informed decision about their participation.” *Manual for Complex Litigation* § 21.311 (4th ed. 2004). Notice must state, “in plain, easily understood language,” (1) the nature of the action; (2) the class definition; (3) the claims, issues, or defenses; (4) that a class member may enter an appearance through an attorney if the member so desires; (5) that the court will exclude any member from the class who so requests; (6) the time and manner for requesting exclusion; and (7) the binding effect of a class judgment. Fed. R. Civ. P. 23(c)(2)(B).

The mail Notice—consisting of the Long Form Notice and Claim Form—provides members of the Settlement Classes with clear, concise, and comprehensive information about the proposed Settlements. The mail Notice describes, among other things: (i) the nature of the lawsuit; (ii) the claims involved and the parties’ positions; (iii) what it means for the Settlements to have been reached; (iv) a summary of the terms of the Settlements, including the monetary relief, and scope of the release; (v) the definition of the Settlement Classes; (vi) a description of the Plans of Allocation and where on the settlement website to find more detailed information about Settlement Fund allocations;⁵ (vii) the procedures and deadlines for submitting a Claim Form in order to receive a payment from a Settlement Fund; (viii) the deadlines and procedures

⁵ Plans of allocation are commonly described in a summary fashion in the notice. *See, e.g., Sonterra Cap. Master Fund Ltd. v. UBS AG*, No. 15-cv-05844 (S.D.N.Y.) (ECF Nos. 221, 223, 261, 263-5, 264) (granting preliminary approval where plan of distribution was described in summary form with “artificiality tables” to be published on settlement website 30 days before opt out deadline).

for exclusion from the Settlement Classes, objecting to the Settlements, and attending the Fairness Hearing; (ix) that members of the Settlement Classes may, but need not, appear through their own counsel at the Fairness Hearing; (x) the binding effect of participating in the Settlements; (xi) the identity of Co-Lead Counsel; and (xii) Co-Lead Counsel's intention to move for an award of fees, expenses, and incentive awards.

Similarly, the Summary Notice communicates to potential members of the Settlement Classes, in clear and concise language, the information required to reach an informed decision. This includes Defendants' alleged misconduct; the scope of the Settlement Classes; the amount of the Settlements; the rights of the members of the Settlement Class to opt out or object to the Settlements; and the date and location of the Fairness Hearing to be set by the Court. The Summary Notice also directs members of the Settlement Classes to the designated settlement website referenced above, tells them where the Long Form Notice and other Settlement-related documents are available, and provides contact information for the Settlement Administrator and Co-Lead Counsel. Like the language in the mail Notice, the Summary Notice's language is designed to be readily understood by settlement class members.

Plaintiffs submit that the proposed Long Form Notice, Summary Notice, and Claim Form meet the requirements of Rule 23(e) and 23(c)(2)(B) and, thus, should be approved by the Court.

II. THE PLANS OF ALLOCATION SHOULD BE PRELIMINARILY APPROVED

Plaintiffs' proposed Plans of Allocation⁶ were crafted based on the knowledge and experience of Co-Lead Counsel, including insights reached about the interest rate swaps market

⁶ To be clear, there are technically two "Plans of Allocation"—one for the Credit Suisse Settlement Agreement and one for the New Settlement Agreement. But they are functionally identical. Information for both Settlement Classes will be obtained via a single Claim Form.

by Plaintiffs' experts. The proposed Plans of Allocation are summarized below. The mail Notice advises members of the Settlement Classes to visit the settlement website for updates about the Plans of Allocation, in case details change over the course of time due to Court order or otherwise.

With respect to how the funds are to be allocated, “while the plan of allocation ‘must be fair and adequate,’ it ‘need only have a reasonable, rational basis.’” *GSE Bonds*, 414 F. Supp. 3d at 694.⁷ Each Net Settlement Fund will be distributed to Claimants *pro rata* based on the relative notional value of their interest rate swaps transactions, as determined from information each Claimant will provide on their Claim Form. The Settlement Administrator will multiply the notional value of each Claimant's interest rate swaps transactions by the transaction's tenor and a “legal risk multiplier,” accounting for the different risk profiles—in terms of litigating this case—of certain interest rate swap transactions. Qualifying transactions with effective dates before January 1, 2013 are assigned a litigation risk multiplier of 0.1, because Plaintiffs sought class certification only for transactions from 2013 onward, meaning that claims based on pre-2013 transactions would face significant legal hurdles not faced by other class members.⁸

And it is likely that if both Settlements are approved, for administrative ease payments to settlement class members will be made in amounts representing their interest in both Settlement Classes. But underlying calculations will be run within each Settlement Fund separately. Thus, for example, the Claim Form requires class members to state their trade information for the January 22, 2022, to June 10, 2024, period, which will only be considered for the New Settlement Agreement, due to its longer Settlement Class Period.

⁷ See also *Yang v. Focus Media Holding Ltd.*, 2014 WL 4401280, at *9 (S.D.N.Y. Sept. 4, 2014) (in evaluating a proposed plan of distribution, courts accord substantial weight to the opinions of experienced counsel); *In re WorldCom, Inc. Sec. Litig.*, 388 F. Supp. 2d 319, 344 (S.D.N.Y. 2005) (“An allocation formula need only have a reasonable, rational basis, particularly if recommended by experienced and competent class counsel.”);

⁸ These transactions are included in the Settlement Class definition because these claims were within the scope of the class definition Plaintiffs originally proposed in their Complaint. See ECF No. 1, at ¶ 247.

Similarly, transactions which were floating-for-floating swaps other than single-currency basis swaps are assigned a legal risk multiplier of 0.1, because these claims were outside the class Plaintiffs ultimately sought to certify.⁹ All other eligible transactions are assigned a litigation risk multiplier of 1.

Every qualifying transaction will be adjusted in this way. The result will be that each class member will have a sum total of damages-and-risk-adjusted claims—or “Credited Claim Value.” For each Settlement Class, the Claims Administrator will collect all eligible claims and distribute the Net Settlement Fund in proportion to each class member’s eligible Credited Claim Value as measured against the total Credited Claim Value for each Settlement Class. This method ensures an equitable distribution that accounts for the most important drivers of class members’ actual damages, while allowing for efficient administration that will preserve the Settlement Funds and distribute class members’ awards quickly. Similar volume-based plans of distribution in financial services antitrust class actions have been regularly approved in this District. *See Order, In re London Silver Fixing, Ltd. Antitrust Litig.*, No. 14-MD-2573 (S.D.N.Y. Aug. 5, 2020), ECF No. 464; *GSE Bonds*, 414 F. Supp. 3d at 698-99 (finding that under volume-based plan of distribution, “claimants will be treated equitably”); *CDS Antitrust*, 2016 WL 2731524, at *9 (holding that a similar allocation scheme “achieves a fair distribution” of the settlement fund).

Where it is reasonably determined that the cost of administering a claim would exceed the value of the claim under the Plan of Allocation, Co-Lead Counsel will direct the Settlement Administrator to preserve the value of the Settlement Fund and make an alternative minimum

⁹ Floating-for-floating IRS were included in the class definition Plaintiffs proposed in their First Amended Complaint. *See* ECF No. 113, at ¶ 353. Multipliers do not stack—*i.e.*, floating-for-floating IRS predating 2013 will receive multipliers of 0.1, not 0.01.

payment to the Authorized Claimant to satisfy such claims. The alternative minimum payment will be a set amount for all such Authorized Claimants, and will be based on the participation rate of the class in each Settlement. Courts routinely approve plans that provide for flat *de minimis* allocations in similar circumstances. *See, e.g., In re Gilat Satellite Networks, Ltd.*, 2007 WL 1191048, at *9-10 (E.D.N.Y. Apr. 19, 2007) (*de minimis* threshold would “save the settlement fund from being depleted by the administrative costs associated with claims unlikely to exceed those costs”); *In re Glob. Crossing Sec. and ERISA Litig.*, 225 F.R.D. 436, 463 (S.D.N.Y. 2004) (approving a *de minimis* threshold because “[c]lass counsel are entitled to use their discretion . . . to avoid excessive expense to the class as a whole”).¹⁰ In addition, if a Class Member submits a Claim that does not conform to the data standards required by the Plans of Allocation, Co-Lead Counsel, at their discretion, may direct the Settlement Administrator to accept the Claim, deny the Claim, or assign it a discounted value.

Finally, with respect to how claims will be processed, “[a] claims processing method should deter or defeat unjustified claims, but the court should be alert to whether the claims process is unduly demanding.” *GSE Bonds*, 414 F. Supp. 3d at 694. A principal goal of the plan of distribution must be “the equitable and timely distribution of a settlement fund without burdening the process in a way that will unduly waste the fund.” *Id.* at 695; *see also In re PaineWebber Ltd. P’ships Litig.*, 171 F.R.D. 104, 135 (S.D.N.Y. 1997) (“Efficiency, ease of administration and conservation of public and private resources are highly relevant to the reasonableness of a settlement, particularly where, as here, the issues are complex, the outcome

¹⁰ Determinations as to the *de minimis* threshold will be made after the claim deadline. *See Manual for Complex Litigation* §21.312 (4th ed. 2004) (“Often . . . the details of allocation and distribution are not established until after the settlement is approved.”).

of the litigation unclear, and the class large.”). Similar to the requirements for notice, whether a plan of distribution is fair and reasonable is “squarely within the discretion of the district court.” *Id.* at 132.

Each Class Member wishing to receive proceeds from a Net Settlement Fund must submit a Claim Form, which, inter alia, releases all Released Claims against all Released Parties (as defined in the Settlement Agreements) and is signed under penalty of perjury by an authorized Person. The Claim Form requires detailed information about the Class Member’s transactions, as seen in Exhibit 2 to the Brockett Declaration. On receipt and processing of Claimants’ data and records, the Settlement Administrator will determine if a Claim Deficiency Notice is required for any transaction and will calculate the Claimant’s Credited Claim Value(s). Class Members also must agree to subject themselves to “audits” if requested, including in providing backup documentation for their claims. Such audits and other quality-control processes will be conducted by the Settlement Administrator.

Plaintiffs respectfully submit that the proposed Plans of Allocation have a reasonable, rational basis, treat settlement class members equitably, and should both be preliminarily approved by the Court.

III. PROPOSED SCHEDULE OF SETTLEMENT EVENTS

Finally, Plaintiffs respectfully propose the following schedule for remaining events and submissions related to the Settlements.

Under the Settlement Agreements, Defendants are to make reasonable efforts to provide reasonably available notice data from Settling Defendants (Counterparty Lists) within 90 days of entry of the Preliminary Approval Orders, which here means by October 9, 2024. As of the date of this motion, Plaintiffs have not yet received the Counterparty Lists. We are nonetheless

making the motion now, so that we can begin providing notice shortly after the Counterparty Lists are actually received. (That is, if we waited to file this motion until October, then that much more time would be lost in terms of getting the Settlement Funds in the hands of the class members.)

Thus, to be clear, Plaintiffs cannot yet actually begin printing and mailing notice packets as of the date of this brief. And thus, a specific date for a Fairness Hearing cannot yet be set. However, we seek preliminary Court approval of the notice and allocation materials now, so that the Settlement Administrator can begin printing, and then mailing, the notice materials as quickly as possible once the Counterparty Lists are received. Plaintiffs thus respectfully propose the following schedule for remaining events and submissions related to the Settlements.

EVENT	PROPOSED DATE
Plaintiffs to inform the Court by letter that they have received the reasonably available Counterparty Lists from Settling Defendants, and Plaintiffs to request a date certain for the Fairness Hearing	As soon as practicable following receipt of the Counterparty Lists.
Commencement of mail Notice to potential members of the Settlement Class, and launch of Settlement website	No later than 30 days after the Court provides a date for the Fairness Hearing following certification of Plaintiffs' receipt of the Counterparty Lists. 30 days from the Court's provision of a Fairness Hearing Date is referred to as the "Notice Date."
Publish Summary Notice	As close to within 10 days after the Notice Date as possible given submission and publication cycles in the chosen medium.
File papers in support of final approval and application for fees, expenses, and incentive awards	30 days after the Notice Date.

<p>Last day to receive mailed Requests for Exclusion Last day to object to final approval and application for fees, expenses, and incentive awards</p>	<p>60 days after the Notice Date (the “Objection Deadline”/the “Exclusion Bar Date”).</p>
<p>Last day for Settling Defendants to request relief under paragraph 9.4 (Credit Suisse Agreement)/10.2 (New Settlement Agreement) based on volume of requests for exclusion</p>	<p>Within 20 business days of receipt of affidavit from Settlement Administrator as to received Requests for Exclusion.</p>
<p>Deadline to submit Claim Forms</p>	<p>90 days after Notice Date (“Claims Deadline”).</p>
<p>Reply papers in support of final approval and application for fees, expenses, and incentive awards (including responses to any objections to final approval and/or application for fees, expenses, and incentive awards)</p>	<p>21 days after Claims Deadline (in this schedule, 111 days after the Notice Date).</p>
<p>Fairness Hearing</p>	<p>At the Court’s convenience, but Plaintiffs would suggest 14 days after the filing of reply papers (in this schedule, approximately 155 days after Co-Lead Counsel inform the Court they have received the Counterparty Lists from the Settling Defendants).</p>

CONCLUSION

For the foregoing reasons, Plaintiffs respectfully request the Court enter the Proposed Order approving notice to the Settlement Class and preliminarily approving the Plans of Allocation.

DATED: September 19, 2024

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