

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

IN RE: INTEREST RATE SWAPS  
ANTITRUST LITIGATION

Case No. 16-MD-2704 (JPO)

This Document Pertains To:

Hon. J. Paul Oetken

ALL CLASS ACTION CASES

**PROPOSED PLAN OF ALLOCATION OF SETTLEMENT FUNDS—NEW  
SETTLEMENT**

1. This Proposed Plan of Allocation of Settlement Funds—New Settlement (“Plan of Allocation” or “POA”) sets forth the method by which Plaintiffs propose to distribute funds available to Settlement Class Members in connection with the Settlement Agreement with the Newly Settling Defendants dated June 10, 2024 (the “New Settlement Agreement”). The Plan of Allocation is substantially the same as and should be considered in conjunction with the Plan of Allocation of Settlement Funds—Credit Suisse Settlement filed herewith; the documents are drafted separately only to avoid confusion as to how the Settlements will be administered. For more information concerning these Settlements and the rights of Settlement Class Members, see the Settlement Website at [www.InterestRateSwapsAntitrustLitigation.com](http://www.InterestRateSwapsAntitrustLitigation.com).

2. The New Settlement Agreement differs somewhat from the Settlement Agreement dated January 21, 2022 between Plaintiffs and the Credit Suisse Defendants (the “Credit Suisse Settlement Agreement”). In particular, the Execution Date of the two Settlement Agreements differ, as do the definitions within each Agreement of “Defendants” and “Investment Vehicles”;

each difference effects differences in the composition of the two Settlement Classes and the eligibility of transactions to be considered in allocating Net Settlement Funds. Distributions from each Settlement's Net Settlement Fund will be calculated independently by the Settlement Administrator. Claimants need not and should not submit duplicate Claim Forms to participate in both Settlements, or submit Claim Forms with duplicate transactions.

3. The Plan of Allocation must be approved by the Court before it is administered. It may be changed at any time without further notice to Claimants, before or after the Court's Fairness Hearing and/or Final Approval of the Settlements, by Court order. Changes to the Proposed Plan of Allocation and any Court-approved Plan of Allocation will be made available to Claimants on the Settlement Website. Settlement Class Members should regularly visit the Settlement Website to be apprised of important developments.

## **I. DEFINITIONS**

4. Capitalized terms not defined below have the meaning given to them in the Settlement Agreements. To the extent there are differences in the meanings of undefined terms between the Settlement Agreements, those terms mean what they mean in the Credit Suisse Settlement Agreement for the purposes of allocating funds from the Credit Suisse Net Settlement Fund, and mean what they mean in the New Settlement Agreement for the purposes of allocating funds from the New Net Settlement Fund.

5. "Authorized Claimant" means any Settlement Class Member who will be entitled to a distribution from the Net Settlement Fund pursuant to the Settlement Agreement and Plan of Allocation approved by the Court.

6. "Claimant" means a Person who submits a Claim Form.

7. “Claim Deficiency Notice” means the notice sent by the Claims Administrator to a Claimant whose Claim Form is deficient in one or more ways such as, for example, failure to provide required information or documentation.

8. “Claims Bar Date” means the deadline established by the Court by which Class Members must submit Claim Forms to the Settlement Administrator.

9. “Class Counsel” means Cohen Milstein Sellers & Toll PLLC and Quinn Emanuel Urquhart & Sullivan, LLP.

10. “Class Plaintiffs” are Public School Teachers’ Pension and Retirement Fund of Chicago, and Los Angeles County Employees Retirement Association.

11. “Court” means the United States District Court for the Southern District of New York.

12. “Credited Claim Value” means the credited claim value of each eligible Interest Rate Swap Transaction as calculated pursuant to Section III, *infra*.

13. “Execution Date” means June 10, 2024.

14. “Interest Rate Swap Transaction” means a fixed-for-floating, floating-for-fixed, or floating-for-floating interest rate swap, forward rate agreement, single-currency basis swap, or overnight index swap, in any currency, executed or cleared (i) by or on behalf of a Person either domiciled or located (*e.g.*, had a principal place of business) in the United States or its territories at the time of such execution or clearing; or (ii) by or on behalf of a Person that was domiciled and located outside the United States and its territories at the time of any such execution or clearing, where such execution or clearing was in United States commerce or otherwise falls within the scope of the U.S. antitrust laws, regardless of the form or manner in which the transaction was consummated.

15. “Investment Vehicles” means any investment company, separately managed account, collective investment trust, or pooled investment fund, including, but not limited to mutual fund families, exchange-traded funds, fund of funds, hedge funds, and retirement accounts and employee benefit plans, in which any Settling Defendant has or may have a direct or indirect interest, or as to which that Settling Defendant or its affiliates may act as an investment advisor or manager, but in which any Settling Defendant alone or with its, his, or her respective affiliates is not a majority owner or does not hold a majority beneficial interest.

16. “Legal Risk Multiplier” means the legal risk multiplier applied to the notional value and tenor of each eligible Interest Rate Swap Transaction, as appropriate for the date and type of transaction, described in Section III, *infra*.

17. “Net Settlement Fund,” used in the singular, means the Settlement Fund less (i) the amount of the Fee and Expense Award and any Plaintiffs’ Service Award, if requested, and to the extent allowed by the Court; (ii) Class Notice and Administration Expenses; (iii) Taxes and Tax Expenses; and (iv) any other fees or expenses approved by the Court. Used in the plural, “Net Settlement Funds” means the Net Settlement Fund attributable to the Credit Suisse Settlement Agreement and the Net Settlement Fund attributable to the New Settlement Agreement collectively, but not in aggregate; *i.e.*, the distributions from each fund will be calculated independently.

18. “Defendants” means any and all parties named as Defendants in any complaint or pleading filed in this Action.

19. “Proof of Claim and Release Form” means the form so titled provided to, requested by, or submitted by Settlement Class Members, whether submitted on paper or electronically, and includes any electronic claim data submitted by Settlement Class Members.

20. “Released Settling Defendant Parties” means the Newly Settling Defendants and each of their respective past or present direct and indirect parents (including holding companies), subsidiaries, affiliates, associates (all as defined in SEC Rule 12b-2, promulgated pursuant to the Securities Exchange Act of 1934, as amended), divisions, joint ventures, predecessors, successors, and each of their respective past, present, and future officers, directors, managers, members, partners, shareholders, insurers, employees, agents, attorneys, legal or other representatives, trustees, heirs, executors, administrators, advisors, and assigns, and the predecessors, successors, heirs, executors, administrators, and assigns of each of the foregoing.

21. “Settlement,” used in the singular, means the settlement described in the New Settlement Agreement. “Settlements” means the settlements described in the Credit Suisse Settlement Agreement and the New Settlement Agreement, collectively.

22. “Settlement Administrator” means Epiq Systems, Inc.

23. “Settlement Amount” means the sum of \$46,000,000.

24. “Settlement Class” means all Persons or entities who, directly or through an agent, entered into one or more U.S. IRS Transactions with any Defendant during the Settlement Class Period. Excluded from the Class are Defendants and their officers, directors, management, employees, and current subsidiaries or affiliates. Also excluded are any entities registered as “swap” dealers with the Commodity Futures Trading Commission (“CFTC”) during the Class Period, the United States Government, and all of the Released Settling Defendant Parties, provided, however, that Investment Vehicles shall not be excluded from the definition of the Settlement Class. For the avoidance of doubt, any entities that are excluded by virtue of having been registered or provisionally registered as swap dealers are only excluded during the period of such registration.

25. “Settlement Class Member” means a Person who falls within the definition of the Settlement Class and has not submitted a Request for Exclusion in connection with the Notice that has been accepted by the Court.

26. “Settlement Class Period” means the period January 1, 2008 through the Execution Date (June 10, 2024).

27. “Settlement Fund” means the Settlement Amount, together with all interest and income earned thereon after being transferred to the Escrow Account.

28. “Settlement Website” means the website located at [www.InterestRateSwapsAntitrustLitigation.com](http://www.InterestRateSwapsAntitrustLitigation.com).

29. “Newly Settling Defendants” means the Bank of America, Barclays, BNPP, Citi, Deutsche Bank, Goldman Sachs, JPMorgan, Morgan Stanley, RBS, and UBS Defendants listed in footnote 1 of the New Settlement Agreement.

## **II. ELIGIBILITY OF CLAIMANTS**

30. The proceeds of the Net Settlement Fund will be paid to Authorized Claimants who submit a valid Proof of Claim and Release Form by the Claims Bar Date. This section describes the administrative procedures that will apply to determine eligibility and the effect of Class Members submitting (or not submitting) Proof of Claim and Release Forms.

### **A. Requirement to Submit a Proof of Claim and Release Form**

31. Each Settlement Class Member wishing to receive proceeds from the Net Settlement Fund must complete and submit a Proof of Claim and Release Form which, *inter alia*, releases all Released Class Claims against all Released Settling Defendant Parties (as those terms are defined in the New Settlement Agreement), is signed under penalty of perjury by an authorized Person, consents to the disclosure, waiver, and instruction paragraphs in Section V of

the Proof of Claim and Release Form, and is supported by such documents or proof as set out in the Proof of Claim and Release Form.

B. Effect of Not Submitting a Proof of Claim and Release Form

32. Any Settlement Class Member who does not submit a complete Proof of Claim and Release Form by the Claims Bar Date, or whose Proof of Claim and Release Form is rejected by the Settlement Administrator and not re-submitted correctly by the Claims Bar Date, will not be entitled to receive any of the proceeds from the Net Settlement Fund, but will in all other respects be subject to and bound by the provisions of the New Settlement Agreement, the releases contained therein, and the Judgement and Order of Dismissal, and will be barred from bringing any action or proceeding against the Released Settling Defendant Parties concerning the Released Class Claims. Class Counsel shall have the discretion, but not the obligation, to accept late-submitted claims for processing by the Settlement Administrator, so long as the distribution of the Net Settlement Fund to Authorized Claimants is not materially delayed.

C. Determination of Eligibility; Claim Deficiency Notices

33. The Settlement Administrator will review each Proof of Claim and Release Form submitted by the Claims Bar Date. The Settlement Administrator will determine: (i) whether the Claimant is an eligible Settlement Class Member; (ii) whether the Proof of Claim and Release Form is complete and sufficient in accordance with the Settlement Agreement and any applicable orders of the Court, including requirements set forth in this Plan of Allocation and instructions on the Proof of Claim and Release Form; and (iii) the extent, if any, to which each claim will be allowed.

34. Proof of Claim and Release Forms that do not meet the submission requirements may be rejected in whole or in part. Prior to rejection of a Proof of Claim and Release Form, the Settlement Administrator will provide the Claimant with a Claim Deficiency Notice. The Claim

Deficiency Notice will, in a timely fashion and in writing, notify all Claimants whose Claim Forms the Claims Administrator proposes to reject, in whole or in part, and set out the reason(s) therefore, and the Claimant will have an opportunity to respond within a reasonable time as determined at the Settlement Administrator's discretion.

35. If a dispute concerning a Claimant's claim cannot be resolved, Class Counsel will thereafter present such disputes to the Court.

D. Submission of Supporting Data and Documents

36. For their claim to be deemed eligible, Claimants must submit written or electronic data relating to their Stock Loan Transactions in accordance with the instructions on the Proof of Claim and Release Form, §§ I-III. Electronic data must be submitted using the template available on the Settlement Website, [www.InterestRateSwapsAntitrustLitigation.com](http://www.InterestRateSwapsAntitrustLitigation.com).

Documentation of transactions should be submitted only as required by instructions on the Proof of Claim and Release Form or requested by the Settlement Administrator.

37. Each submitted Interest Rate Swaps Transaction must be submitted with terms sufficient to calculate and verify the transaction's award pursuant to Section **Error! Reference source not found.**II of this Plan of Allocation or it will be rejected as ineligible. Each submitted Interest Rate Swaps Transaction must have one and only one of each of the following terms or characteristics or it will be rejected:

- (i) Execution date
- (ii) Identifier of the corporate family of Defendant which was the Claimant's counterparty to the transaction;
- (iii) Notional value;
- (iv) The tenor of the swap, *i.e.*, the contract tenor originally agreed by the counterparties; and

- (v) An indicator if the swap was a floating-for-floating swap other than a single-currency basis swap.

38. Nonconforming or unusual Interest Rate Swap Transactions may be submitted if and only if accurate values for the terms in Paragraph 37, reflective of the economic reality of the transaction, may be determined. Claimants are responsible for accurately characterizing their Interest Rate Swaps Transactions and should be prepared to document them. The Settlement Administrator will request documentation as necessary to detect and prevent inaccurate claims.

39. Proof of Claim and Release Forms supported by data or documentation that does not meet the requirements set forth in the Proof of Claim and Release Form or does not follow the template for submission of electronic data made available on the Settlement Website may be rejected by the Settlement Administrator in whole or in part. Failure to provide requested documentation may be grounds for the Settlement Administrator to reject a Claimant's claim in whole or in part.

E. Claims Procedures and Timing

40. On receipt and processing of a Claimant's data and records, the Settlement Administrator will: (i) determine the eligibility for an award of each of the Claimant's submitted Interest Rate Swap Transactions; (ii) determine if a Claim Deficiency Notice is required with respect to any ineligible Interest Rate Swap Transaction submitted in connection with the Claimant's Proof of Claim and Release Form; and (iii) calculate, for each of the Claimant's submitted eligible Interest Rate Swap Transactions, the transaction's Credited Claim Value, as described in Section III below.

41. Following receipt of a Claimant's Proof of Claim and Release Form via the Settlement Website, the Settlement Administrator will issue a "Confirmation of Claim Receipt" to the Claimant via email to the Claimant. For claims submitted via mail, the Settlement

Administrator will issue a “Confirmation of Claim Receipt” provided that the Claimant provides a self-addressed stamped envelope for the receipt’s return.

### **III. CALCULATION OF AWARDS**

#### **A. The Net Settlement Fund for Distribution**

42. The Newly Settling Defendants have entered into a proposed Settlement Agreement with Class Plaintiffs that provide for total payments of \$46,000,000 into the Settlement Fund. If the Settlement Agreement is approved, the Net Settlement Fund (defined above) will be distributed to all Authorized Claimants in accordance with the Plan of Allocation approved by the Court. No monies will revert to the Newly Settling Defendants if there is final approval of the Settlement Agreement by the Court.

43. The Net Settlement Fund will be distributed *pro rata* among Claimants in proportion to the sum of their Credited Claim Values for the Settlement Class Period, as set out below.

#### **B. Calculation of Credited Claim Values**

44. For each eligible Interest Rate Swap Transaction, the Settlement Administrator will calculate a Credited Claim Value for that transaction. The Credited Claim Value for an Interest Rate Swap Transaction is determined by the formula:

$$CCV = NV \times T \times LRM$$

where CCV means Credited Claim Value; NV represents the notional value of the transaction; T represents the tenor of the transaction; and LRM represents a Legal Risk Multiplier reflecting adjustments for heightened legal risks associated with recovering damages for certain kinds of Interest Rate Swap Transactions.

45. The Settlement Administrator will assign Legal Risk Multipliers (LRM) to each eligible Stock Loan Transaction as follows:

<b>Transaction Characteristics</b>	<b>Legal Risk Multiplier</b>
All transactions executed before January 1, 2013	0.1
All floating-for-floating swaps other than single-currency basis swaps	0.1
All other eligible transactions	1.0

46. Legal risk multipliers do not “stack”; *i.e.*, floating-for-floating transactions other than single-currency basis swaps executed before January 1, 2013 will receive an LRM of 0.1, not 0.01.

#### **IV. DETERMINATION AND DISTRIBUTION OF AWARDS**

47. For each Authorized Claimant, the Settlement Administrator will sum the total of all Credited Claim Values for each of the Claimant’s eligible Interest Rate Swap Transactions.

48. Each Authorized Claimant’s award from the Net Settlement Fund will be a *pro rata* share of the Net Settlement Fund proportionate to the ratio of the sum of their Credited Claim Values to the sum of all Credited Claim Values for the Settlement.

49. For administrative efficiency, each Authorized Claimant’s award from the Settlement may be combined with the Claimant’s award from the Credit Suisse Settlement.

50. Following the Effective Date of the Settlement and the Settlement Administrator’s calculation of each Authorized Claimant’s award(s) or alternative minimum payment (see Section V, *infra*), the Settlement Administrator will distribute the Net Settlement Fund to Authorized Claimants pursuant to the Plan of Allocation approved by the Court.

51. If there is any balance remaining in the Net Settlement Fund after a reasonable period of time after the initial date of distribution of the Net Settlement Fund, the Settlement Administrator will, if feasible, allocate such balance among Authorized Claimants in an equitable and economic fashion. These redistributions will be repeated until the remaining

balance in the Net Settlement Fund is impracticable to distribute equitably and economically to Authorized Claimants, at which point any remaining balance will be donated to an appropriate 501(c)(3) non-profit selected by Class Counsel and approved by the Court. For the sake of clarity, Authorized Claimants who receive an alternative minimum payment may, at the Settlement Administrator's discretion, be excluded from subsequent distributions entirely.

#### **V. ALTERNATIVE MINIMUM PAYMENT**

52. For each Authorized Claimant, if Class Counsel and the Settlement Administrator reasonably determine that the cost of administering claims to that Authorized Claimant would exceed the value of the awards to that Authorized Claimant, Class Counsel will instruct the Settlement Administrator to preserve the value of the Settlement Fund and make an alternative minimum payment to satisfy such claims. The alternative minimum payment will be a set amount for all applicable Authorized Claimants and will be based on the participation rate of the Settlement Class in the Settlement. If a Settlement Class Member submits a Claim that does not conform to the data standards required by Section II of this Plan of Allocation, Class Counsel, at its discretion, may direct the Settlement Administrator to accept the Claim, deny the Claim, or assign it a discounted value. If the Settlements are both approved, at the discretion of Class Counsel and the Settlement Administrator there may be a single alternative minimum payment amount made for all Settlements.

Dated: March 17, 2025

Respectfully submitted,

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