UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE EUROPEAN GOVERNMENT BONDS ANTITRUST LITIGATION	Case No. 1:19-cv-2601 (VM) Hon. Victor Marrero

PLANTIFFS' NOTICE OF MOTION FOR FINAL APPROVAL OF SETTLEMENT WITH DEFENDANTS BANK OF AMERICA, N.A., MERRILL LYNCH INTERNATIONAL, NATWEST MARKETS PLC, NATWEST MARKETS SECURITIES INC., NOMURA INTERNATIONAL PLC, UBS AG, UBS EUROPE SE, UBS SECURITIES LLC, CITIGROUP GLOBAL MARKETS INC., CITIGROUP GLOBAL MARKETS LIMITED, JEFFERIES INTERNATIONAL LIMITED, AND JEFFERIES LLC

PLEASE TAKE NOTICE that Plaintiffs Ohio Carpenters' Pension Fund, Electrical Workers Pension Fund Local 103 I.B.E.W., and San Bernardino County Employees' Retirement Association (collectively, "Plaintiffs") will, and hereby do, move the Court pursuant to Federal Rule of Civil Procedure 23(e) for an order finally approving the proposed Settlement with Defendants Bank of America, N.A., Merrill Lynch International, NatWest Markets Plc and NatWest Markets Securities Inc., Nomura International plc, UBS AG, UBS Europe SE and UBS Securities LLC, Citigroup Global Markets Inc. and Citigroup Global Markets Limited, Jefferies International Limited, and Jefferies LLC (together, "Defendants").

Submitted herewith in support of this motion are the:

(1) Memorandum of Law in Support of Plaintiffs' Motion for Final Approval of Settlement with Defendants;

(2) Joint Declaration of Patrick Coughlin, Vincent Briganti, Gregory S. Asciolla, and Todd A. Seaver in Support of Motion for Final Approval of Settlement with Defendants and in Support of Co-Lead Counsel's Motion for an Award of Attorney's Fees, Litigation Expenses, and Service Awards; and

(3) Declaration of Jack Ewashko on Behalf of A.B. Data, Ltd. Regarding Notice Administration.

Dated: October 18, 2024

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE EUROPEAN GOVERNMENT BONDS ANTITRUST LITIGATION	Lead Case No. 19-cv-2601 Hon. Victor Marrero

MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFFS' MOTION FOR FINAL APPROVAL OF SETTLEMENT WITH DEFENDANTS BANK OF AMERICA, N.A., MERRILL LYNCH INTERNATIONAL, NATWEST MARKETS PLC, NATWEST MARKETS SECURITIES INC., NOMURA INTERNATIONAL PLC, UBS AG, UBS EUROPE SE, UBS SECURITIES LLC, CITIGROUP GLOBAL MARKETS INC., CITIGROUP GLOBAL MARKETS LIMITED, JEFFERIES INTERNATIONAL LIMITED, AND JEFFERIES LLC

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INTRODUCTION

Plaintiffs Ohio Carpenters' Pension Fund ("Ohio Carpenters"), Electrical Workers Pension Fund Local 103 I.B.E.W. ("IBEW 103"), and San Bernardino County Employees' Retirement Association ("SBCERA") (collectively, "Plaintiffs") respectfully move pursuant to Rule 23 of the Federal Rules of Civil Procedure for final approval of the Settlement with Bank of America, N.A., Merrill Lynch International, NatWest Markets Plc and NatWest Markets Securities Inc., Nomura International plc, UBS AG, UBS Europe SE and UBS Securities LLC, Citigroup Global Markets Inc. and Citigroup Global Markets Limited, Jefferies International Limited, and Jefferies LLC together with their affiliates and subsidiaries ("Settling Defendants," and together with Plaintiffs, the "Parties").[1]

The Settlement, if approved, would add $80 million to the earlier recoveries already finally approved in this Action. Together with the prior settlements (finally approved by the Court on April 19, 2024) totaling $40 million with State Street Corporation and State Street Bank and Trust Company (together, "State Street"); JPMorgan Chase Bank, N.A., J.P. Morgan Securities plc (f/k/a J.P. Morgan Securities Ltd.), and J.P. Morgan Securities LLC (f/k/a J.P. Morgan Securities Inc.) (collectively, "JPMorgan"); UniCredit Bank AG ("UniCredit"); and Natixis, S.A. ("Natixis"), this Settlement would bring the total settlement funds recovered in this Action to $120 million and would resolve the Action in its entirety.

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[1] Unless otherwise defined herein, all capitalized terms have the same meaning as defined in the Stipulation and Agreement of Settlement with Bank of America, N.A., Merrill Lynch International, NatWest Markets Plc, NatWest Markets Securities Inc., Nomura International plc, UBS AG, UBS Europe SE, UBS Securities LLC, Citigroup Global Markets Inc., Citigroup Global Markets Limited, Jeffries International Limited, and Jeffries LLC ("Stipulation"). ECF No. 503-1. Unless otherwise noted, internal citations and quotation marks are omitted, and emphasis is added.

In granting preliminary approval to the Settlement, the Court found that it would likely be able to approve the Settlement under Rule 23(e)(2). The Class's reaction since Notice was issued further supports the bases for finally approving the Settlement. The notice period began on August 19, 2024, and 8,103 Notice Packets have been mailed to potential Settlement Class Members.[2] Declaration of Jack Ewashko on Behalf of A.B. Data, Ltd. Regarding Notice Administration ("AB Data Decl.") ¶¶7, 9-10. There also have been more than 54,182 visits to the Settlement website. AB Data Decl., ¶19. Despite this broad notice program, no objections or requests for exclusion have been received to date. AB Data Decl., ¶¶24-25. The reaction of the Settlement Class reflects that the Settlement is a satisfactory resolution with Settling Defendants.

For the reasons detailed below and previously in Plaintiffs' memorandum in support of their motion for preliminary approval (ECF No. 502) ("Prelim. Approval Mem."), Plaintiffs respectfully request that the Court finally approve the Settlement and the Distribution Plan, certify the Settlement Class, and enter the proposed Judgment.

PROCEDURAL HISTORY[3]

On June 11, 2019, Plaintiffs filed the Consolidated Class Action Complaint ("CAC") against Defendants Bank of America, N.A., Bank of America Merrill Lynch International Designated Activity Company (f/k/a Bank of America Merrill Lynch International Limited) ("BAML"), and Merrill Lynch International (collectively, "BAML"); NatWest Markets plc (f/k/a

[2] Rust Consulting, Inc. also sent 9,647 notices on behalf of Defendants. Mailing of these notices commenced on August 23, 2024 and finished on September 12, 2024. AB Data Decl., ¶11.

[3] A detailed description of the procedural history is included in the Joint Declaration of Patrick Coughlin, Vincent Briganti, Gregory S. Asciolla, and Todd A. Seaver in Support of Motion for Final Approval of Settlement with Defendants and in Support of Motion for an Award of Attorneys' Fees, Litigation Expenses, and Service Awards ("Joint Declaration" or "Joint Decl."), filed herewith.

Royal Bank of Scotland plc) and NatWest Markets Securities Inc. (f/k/a RBS Securities Inc.) (together, "NatWest"); Nomura Securities International Inc. and Nomura International PLC (together, "Nomura"); and UniCredit and UniCredit Capital Markets LLC (together, "UniCredit"). Joint Decl., ¶9. On September 6, 2019, Plaintiffs filed a Second Amended Consolidated Class Action Complaint ("SAC"). *Id.*, ¶11. On December 3, 2019, Plaintiffs filed a Third Consolidated Amended Class Action Complaint ("TAC"), adding Natixis and UBS AG, UBS Europe SE, and UBS Securities LLC (f/k/a UBS Warburg LLC) (collectively, "UBS") as Defendants in the Action. *Id.*, ¶13.

On February 26, 2020, Defendants served a pre-motion letter informing Plaintiffs of their intent to move to dismiss the TAC, to which Plaintiffs responded on March 11, 2020. *Id.*, ¶14. On July 23, 2020, the Court issued its Decision and Order granting in part and denying in part Defendants' motion to dismiss the TAC. *Id.*, ¶15. On August 6, 2020, Natixis and Nomura moved for reconsideration of the July 23 Decision and Order, which the Court denied. *Id.*, ¶¶16, 19.

After moving to amend their complaint, agreeing with Defendants on an amendment schedule, and obtaining leave of the Court, Plaintiffs filed their Fourth Consolidated Amended Class Action Complaint ("FAC") on February 9, 2021, adding Defendants, including Citigroup Global Markets Limited and Citigroup Global Markets Inc. (together, "Citigroup"); RBC Europe Limited (f/k/a Royal Bank of Canada Europe Limited), Royal Bank of Canada, and RBC Capital Markets, LLC (f/k/a Dain Rauscher Inc.) (collectively, "RBC"); Jefferies International Limited and Jefferies LLC (together, "Jefferies"); State Street; and JPMorgan; and joining SBCERA as a Plaintiff in place of Boston Retirement System. *Id.*, ¶¶17, 20.

On April 16, 2021, Defendants (except for State Street) served Plaintiffs with a pre-motion letter stating their intent to move for dismissal of the FAC. *Id.*, ¶22. On May 17, 2021, Plaintiffs served Defendants with a letter responding to Defendants' pre-motion letter. *Id.*

On March 14, 2022, the Court issued its Decision and Order granting in part and denying in part Defendants' motions to dismiss the FAC. *Id.*, ¶28. On March 28, 2022, UniCredit, Natixis, Citigroup, and Jefferies filed motions for reconsideration of the March 14 Decision and Order, which the Court denied. *Id.*, ¶¶29, 31.

While the motion to dismiss the FAC was pending, on June 15, 2021, Plaintiffs moved for preliminary approval of a proposed settlement with State Street, which the Court granted. *Id.*, ¶25. On April 29, 2022, Plaintiffs moved for preliminary approval of the JPMorgan Settlement, which the Court granted. *Id.*, ¶30. On November 17, 2022, the Court preliminarily approved the proposed notice program and Distribution Plan for the State Street and JPMorgan Settlements. *Id.*, ¶30. Notice of the State Street and JPMorgan settlements began on February 1, 2023, but due to issues with distributing notice to certain non-settling Defendants' counterparties, upon Plaintiffs' request, the Court vacated all deadlines for the two settlements on March 21, 2023. *Id.*

On November 7, 2022, Plaintiffs moved for leave to amend the FAC, which certain previously dismissed Defendants opposed. *Id.*, ¶38. On May 12, 2023, Plaintiffs moved for preliminary approval of the Natixis and UniCredit settlements, which the Court granted on May 16, 2023. *Id.*, ¶40. On the same date, the Court approved a new notice schedule that would provide a single notice of the State Street, JPMorgan, UniCredit, and Natixis settlements with common deadlines to file claims, requests for exclusion, and objections. *Id.*, ¶40.

On May 19, 2023, Deutsche Bank AG, Deutsche Bank Securities, Inc. (together, "Deutsche Bank"), Coöperatieve Rabobank U.A., and Rabo Securities USA, Inc. (together, "Rabobank"), the

defendants in the related *EGB II* action (the "*EGB II* defendants"), objected to the Natixis and UniCredit settlements on the grounds that the initial UniCredit and Natixis stipulations included the *EGB II* defendants in the definition of the term "Defendants."[4] *Id.*, ¶41. On June 27, 2023, the Court issued a Decision and Order sustaining the *EGB II* defendants' objection and required amendment of the UniCredit and Natixis stipulations. *Id.*, ¶44. Plaintiffs filed the Amended UniCredit and Natixis stipulations on July 11, 2023. *Id.*, ¶45. The Court granted preliminary approval of the amended stipulations the next day. *Id.*, ¶45.

On September 25, 2023, the Court granted Plaintiffs' motion to amend the FAC. *Id.*, ¶48. Plaintiffs filed a Fifth Amended Complaint ("5AC") on October 16, 2023. *Id.*, ¶49. Defendants answered the 5AC on December 15, 2023, and discovery commenced pursuant to the civil case management plan and scheduling order the Court entered on October 26, 2023. *Id.*, ¶¶50, 55-60. NatWest and UBS produced – and Plaintiffs reviewed – chatroom communications previously provided to the European Commission in connection with its investigation of the European Government Bond market. *Id.*, ¶¶62-63.

A final Settlement Hearing for the settlements with State Street, JPMorgan, UniCredit, and Natixis occurred on April 19, 2024, at which time the Court approved each settlement and entered final judgments. *Id.*, ¶65 (citing ECF Nos. 483-87).

On April 15, 2024, the Parties executed a term sheet agreeing to the material terms of a resolution of the Action, and, on July 18, 2024, the Parties executed the Settlement Agreement, which is substantially the same as the settlements previously approved by the Court. *Id.*, ¶69. Settling Defendants agreed to pay $80 million into the Settlement Fund for the benefit of all

[4] On December 26, 2023, the *EGB II* action was re-assigned to Judge Edgardo Ramos. On August 26, 2024, Judge Ramos dismissed that action, and the plaintiffs voluntarily dismissed the action on September 6, 2024.

Settlement Class Members. *Id.*, ¶70. On July 26, 2024, Plaintiffs moved for preliminary approval of the Settlement, which the Court granted on July 29, 2024. *Id.*, ¶71 (citing ECF No. 501, 505).

ARGUMENT

I. THE COURT SHOULD GRANT FINAL APPROVAL OF THE PROPOSED SETTLEMENT

"The compromise of complex litigation is encouraged by the courts and favored by public policy." *Wal-Mart Stores, Inc. v. Visa U.S.A., Inc.*, 396 F.3d 96, 117 (2d Cir. 2005) (internal citation omitted). In service of "the 'strong judicial policy in favor of settlements, particularly in the class action context,'" *id.*, a court may approve a class action settlement upon a showing that the settlement is "fair, reasonable, and adequate." FED. R. CIV. P. 23(e)(2). A settlement is fair, reasonable, and adequate and should be approved if the settlement is shown to be both procedurally and substantively fair. *See Flores v. CGI Inc.*, No. 22-cv-350 (KHP), 2022 WL 13804077, at *3 (S.D.N.Y. Oct. 21, 2022); *In re Payment Card Interchange Fee & Merchant Discount Antitrust Litig.*, 330 F.R.D. 11, 28 (E.D.N.Y. 2019) ("*Payment Card*") (analyzing the amended Rule 23(e)(2) standards to be applied at both preliminary and final approval).

Rule 23 enumerates criteria to guide the Court's analysis, with the factors in Rule 23(e)(2)(A) and (B) focusing on the procedural fairness of a settlement and those in Rule 23(e)(2)(C) and (D) focusing on substantive fairness. FED. R. CIV. P. 23 advisory committee's note to 2018 amendment ("2018 Advisory Note") (Rule 23 focuses on the "core concerns of procedure and substance" to be considered when deciding whether to finally approve a settlement). The courts in this Circuit also consider the factors set forth in *City of Detroit v. Grinnell Corporation*, 495 F.2d 448, 463 (2d Cir. 1974), to assess the fairness of a class settlement. Applying the *Grinnell* factors and Rule 23 to the Settlement here demonstrates final approval of the Settlement is warranted.

A. The Settlement Is Procedurally Fair

To approve a class settlement, Rule 23 requires the Court to find that "the class representatives and class counsel have adequately represented the class [and] the proposal was negotiated at arm's length[.]" FED. R. CIV. P. 23(e)(2)(A)-(B). Courts presume settlements are procedurally fair when they are the product of "arm's length negotiations conducted by experienced, capable counsel after meaningful discovery." *Okla. Firefighters Pension & Ret. Sys. v. Lexmark Int'l, Inc.*, No. 17-cv-5543, 2021 WL 76328, at *1 (S.D.N.Y. Jan. 7, 2021).

1. Plaintiffs and Co-Lead Counsel have adequately represented the Class (Rule 23(e)(2)(A))

Adequate representation under Rule 23(e)(2)(A) (and 23(a)(4))[5] requires that plaintiffs "demonstrate that: (1) the class representatives do not have conflicting interests with other class members; and (2) class counsel is qualified, experienced and generally able to conduct the litigation." *Flores*, 2022 WL 13804077, at *4. These criteria are met when the class representative's interests are not antagonistic to those of the class and their chosen counsel is qualified, experienced, and able to conduct the litigation. *See Soler v. Fresh Direct, LLC*, No. 20-cv-3431 (AT), 2023 WL 2492977, at *3 (S.D.N.Y. Mar. 14, 2023); *Wal-Mart*, 396 F.3d at 106–07 (adequate representation is established "by showing an alignment of interests between class members, not by proving vigorous pursuit of that claim."); *In re Payment Card Interchange Fee and Merchant Discount Antitrust Litig.*, 827 F.3d 223, 232 (2d Cir. 2016) (the focus for adequacy

[5] Courts analyze the adequacy of representation requirement of Rule 23(e)(2)(A) using the same considerations for representative adequacy under Rule 23(a)(4). *See Payment Card*, 330 F.R.D. at 30, n.25 ("This adequate representation factor [under Rule 23(e)(2)(A)] is nearly identical to the Rule 23(a)(4) prerequisite of adequate representation in the class certification context. As a result, the Court looks to Rule 23(a)(4) case law to guide its assessment of this factor."); *see also In re GSE Bonds Antitrust Litig.*, 414 F. Supp. 3d 686, 701 (S.D.N.Y. 2019) ("*GSE Bonds*").

is whether the interests of the class are "sufficiently cohesive to warrant adjudication.") (internal citations omitted).

Plaintiffs' identical interests relative to the Class demonstrate their adequacy to represent the Class. Plaintiffs suffered the same alleged injury as other Class Members—monetary losses resulting from overcharges or underpayments in their European Government Bond transactions with Defendants due to the alleged collusion. Plaintiffs, who are institutional investors, have also played an active role in the development and prosecution of this Action and in analyzing and authorizing the Settlement. *See Denney v. Deutsche Bank AG*, 443 F.3d 253, 268 (2d Cir. 2006) (class representatives must have "an interest in vigorously pursuing the claims of the class, and must have no interests antagonistic to the interests of other class members"); *Lexmark Int'l, Inc.*, 2021 WL 76328, at *1 (settlements reached "under the supervision and with the endorsement of a sophisticated institutional investor" are entitled to an "even greater presumption of reasonableness.").

Further, Co-Lead Counsel's[6] extensive class action, antitrust, and complex litigation experience combined with their work in the Action provide strong evidence that the Settlement is procedurally fair. *See In re Currency Conversion Fee Antitrust Litig.*, 263 F.R.D. 110, 122 (S.D.N.Y. 2009) (noting the "extensive" experience of counsel in granting final approval of settlement), *aff'd*, *Priceline.com, Inc. v. Silberman*, 405 F. App'x 532 (2d Cir. 2010); *see also Shapiro v. JPMorgan Chase & Co.*, No. 11 Civ. 8331 (CM) (MHD), 2014 WL 1224666, at *2 (S.D.N.Y. Mar. 24, 2014) (giving "great weight" to experienced class counsel's opinion that the settlement was fair). As Co-Lead Counsel's firm resumes demonstrate, they have led numerous

[6] "Co-Lead Counsel" are Scott+Scott Attorneys at Law LLP, DiCello Levitt LLP, Lowey Dannenberg, P.C., and Berman Tabacco. Labaton Sucharow LLP was originally appointed by the Court as co-lead counsel and later substituted for DiCello Levitt. ECF No. 235.

antitrust and other complex class actions and recovered billions of dollars in class actions. *See* ECF No. 312-7, 312-8, 312-9, 312-10 (firm resumes).

In appointing Co-Lead Counsel as interim class counsel, the Court made an initial determination of counsel's adequacy. *See* 2018 Advisory Note (interim appointment entails an evaluation of counsel's adequacy to represent the class). The Court's initial determination of counsel's adequacy has been bolstered by Co-Lead Counsel's performance in this case. Co-Lead Counsel undertook an extensive investigation, which included engaging experts to analyze European Government Bond prices around bond auctions and quotes in the secondary market, as well as analyzing thousands of pages of settlement cooperation to include in the FAC and 5AC. Joint Decl., ¶¶5, 86; *see*, *e.g.*, *In re Nissan Radiator/Transmission Cooler Litig.*, No. 10-cv-7493(VB), 2013 WL 4080946, at *7 (S.D.N.Y. May 30, 2013) (counsel "conducted an investigation prior to commencing the action, retained experts, and engaged in confirmatory discovery in support of the proposed settlement"). Further, the Court has previously determined Co-Lead Counsel provided adequate representation when it approved the settlements with State Street, JPMorgan, UniCredit, and Natixis. ECF Nos. 483-487.

Using their substantial collective experience in complex class actions and the information they developed in investigating and litigating this Action, Co-Lead Counsel gained an understanding of the potential strengths and risks of Plaintiffs' claims and developed a comprehensive strategy to maximize Plaintiffs' ability to obtain a favorable outcome for the Class. *See City of Providence v. Aeropostale, Inc.*, No. 11 Civ. 7132(CM)(GWG), 2014 WL 1883494, at *7 (S.D.N.Y. May 9, 2014) (crediting the adequacy of counsel that "developed a comprehensive understanding of the key legal and factual issues in the litigation and, at the time the Settlement was reached, had 'a clear view of the strengths and weaknesses of their case' and of the range of

possible outcomes at trial") (internal citation omitted). As a result, both Co-Lead Counsel and Plaintiffs were more than adequate in their representation of the Class.

2. The Settlement was negotiated at arm's length (Rule 23(e)(2)(B))

"[A] strong initial presumption of fairness attaches to [a] proposed settlement," when the "integrity of the arm's length negotiation process is preserved[.]" *In re PaineWebber Ltd. P'ships Litig.*, 171 F.R.D. 104, 125 (S.D.N.Y. 1997), *aff'd*, 117 F.3d 721 (2d Cir. 1997); *see In re Austrian and German Bank Holocaust Litig.*, 80 F. Supp. 2d 164, 173-74 (S.D.N.Y. 2000) (where a settlement is the "product of arm's length negotiations conducted by experienced counsel knowledgeable in complex class litigation," the settlement enjoys a "presumption of fairness"), *aff'd sub nom., D'Amato v. Deutsche Bank*, 236 F.3d 78 (2d Cir. 2001). The Settlement is entitled to a presumption of fairness because the process by which the agreements were struck bears the hallmarks of a hard-fought, non-collusive negotiation led by capable counsel.

As noted in Plaintiffs' Preliminary Approval Memorandum, prior to engaging in settlement discussions with Settling Defendants, Co-Lead Counsel had thoroughly investigated Plaintiffs' claims in the European Government Bond market. They had also countered the arguments Defendants presented in their motions to dismiss the complaints, their motions for reconsideration, and their opposition to Plaintiffs' motion for leave to amend the FAC. Accordingly, "plaintiffs' counsel [was] sufficiently well informed" to adequately advise and recommend the settlement to the class representatives and settlement class. *GSE Bonds*, 414 F. Supp. 3d at 699.

In addition to the knowledge acquired through their investigation and prosecution of the Action, Co-Lead Counsel had the benefit of the Parties' meaningful and productive discussions of their views on the case and the key settlement terms, Co-Lead Counsel also had access to the detailed chats from the European Commission's May 2021 Decision, many of which were included

in the 5AC. Joint Decl., ¶¶38, 63. Through discovery, Co-Lead Counsel also obtained evidence NatWest and UBS previously provided to the European Commission as immunity and leniency applicants. *Id.*, ¶63.

At all times, Co-Lead Counsel were fully informed about the facts, risks and challenges of the Action and had a sufficient basis on which to recommend the Settlement. Co-Lead Counsel's conclusion that the Settlement is fair and reasonable weighs in favor of finding the Settlement is procedurally fair and should be approved. *See Hart v. BHH, LLC*, No. 15-cv-4804, 2020 WL 5645984, at *2 (S.D.N.Y. Sept. 22, 2020) (courts give "great weight . . . to the recommendations of counsel, who are most closely acquainted with the facts of the [] litigation") (internal citation omitted).

B. The Proposed Settlement Is Substantively Fair

To assess the Settlement's substantive fairness, the Court considers whether "the relief provided for the class is adequate," accounting for the following factors: "(i) the costs, risks, and delay of trial and appeal; (ii) the effectiveness of any proposed method of distributing relief to the class, including the method of processing class-member claims; (iii) the terms of any proposed award of attorneys' fees, including timing of payment; and (iv) any agreement required to be identified under Rule 23(e)(3)." FED. R. CIV. P. 23(e)(2)(C). The Court also must confirm that the Settlement "treats class members equitably relative to each other." FED. R. CIV. P. 23(e)(2)(D). In addition, courts in this Circuit consider the nine *Grinnell* factors:

> (1) the complexity, expense and likely duration of the litigation; (2) the reaction of the class to the settlement; (3) the stage of the proceedings and the amount of discovery completed; (4) the risks of establishing liability; (5) the risks of establishing damages; (6) the risks of maintaining the class action through the trial; (7) the ability of the defendants to withstand a greater judgment; (8) the range of reasonableness of the settlement fund in light of the best possible recovery; [and] (9) the range of reasonableness of the settlement fund to a possible recovery in light of all the attendant risks of litigation.

Grinnell, 495 F.2d at 463; *see GSE Bonds*, 414 F. Supp. 3d at 692 ("The Advisory Committee Notes to the 2018 amendments indicate that the four new Rule 23 factors were intended to supplement rather than displace these '*Grinnell'* factors."); *Payment Card*, 330 F.R.D. at 29 ("[T]here is significant overlap between the *Grinnell* factors and the Rule 23(e)(2)(C)-(D) factors"). Here, the Rule 23(e) and *Grinnell* factors weigh heavily in favor of final approval of the Settlement Agreement, which is substantially the same as the previously approved settlements by the Court.

1. The costs, risks, and delay of trial and appeal favor the Settlement (Grinnell Factors # 1, 4, 5 and 6 and Rule 23(e)(2)(C)(i))

To determine whether a settlement provides adequate relief, the Court evaluates "the costs, risks, and delay of trial and appeal," FED. R. CIV. P. 23(e)(2)(C)(i), "to forecast the likely range of possible classwide recoveries and the likelihood of success in obtaining such results." *Payment Card*, 330 F.R.D. at 36. This factor "implicates several *Grinnell* factors, including: (i) the complexity, expense and likely duration of the litigation; (ii) the risks of establishing liability; (iii) the risks of establishing damages; and (iv) the risks of maintaining the class through the trial." *Id.*; *see also GSE Bonds*, 414 F. Supp. 3d at 693. In its evaluation, the Court "balance[s] the benefits afforded the Class, including immediacy and certainty of recovery, against the continuing risks of litigation." *GSE Bonds*, 414 F. Supp. 3d at 694 (internal citation omitted); *see also JPMorgan*, 2014 WL 1224666, at *10 (at final approval, the Court's role is not to "decide the merits of the case[,] resolve unsettled legal questions or [] foresee with absolute certainty the outcome of the case").

Antitrust cases require a significant expenditure of time and resources, and this case is no exception. *See Wal-Mart*, 396 F.3d at 118; *GSE Bonds*, 414 F. Supp. 3d at 693 ("Numerous federal

courts have recognized that federal antitrust cases are complicated, lengthy, and bitterly fought as well as costly. . . .") (internal citations omitted); *In re NASDAQ Market–Makers Antitrust Litigation*, 187 F.R.D. 465, 474 (S.D.N.Y. 1998) ("*NASDAQ III*") (discussing the difficulties of proving antitrust liability where plaintiffs had to prove, among other things, a complex conspiracy involving multiple defendants, a common motive, actions against defendants' financial interest and/or evidence of coercion). As the case advances from the pleadings through discovery and into the trial phase, the litigation risks only increase. *See, e.g.*, *GSE Bonds*, 414 F. Supp. 3d at 694 ("there is no guarantee that plaintiffs will be able to prove liability" after the parties further develop the case through discovery). Discovery in antitrust cases is traditionally lengthy and costly. *See Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 558 (2007) ("[P]roceeding to antitrust discovery can be expensive."). Given the expert analysis required and the number of parties involved, continued litigation would be prolonged and expensive. *See In re Facebook, Inc., IPO Sec. & Derivative Litig.*, 343 F. Supp. 3d 394, 410 (S.D.N.Y. 2018), *aff'd*, 822 F. App'x 40 (2d Cir. 2020) (experts "tend[] to increase both the cost and duration of litigation").

Specifically, this Action requires a deep understanding of the European Government Bond market, which Co-Lead Counsel have developed through their investigation and expert work. The intricate nature of the financial products and market involved, the lengthy period over which the alleged anticompetitive conduct occurred, and the number of defendants involved make this Action a highly complex and risky case for Plaintiffs to pursue. *See Currency Conversion Fee*, 263 F.R.D. at 123 ("the complexity of Plaintiffs' claims *ipso facto* creates uncertainty").

As previously described in Plaintiffs' Preliminary Approval Memorandum, the factual and legal issues in this Action are complex and expensive to litigate. *See* ECF No. 502 at 17-18. Plaintiffs alleged that Defendants conspired to manipulate European Government Bond

transactions for six years across 13 bond-issuing countries. Defendants have argued, among other things, that Plaintiffs' economic analysis of bid-ask spreads failed to show Defendants' involvement in a conspiracy, and that analysis of the European Government Bond auctions demonstrate outcomes based on ordinary market forces and not manipulation. Defendants contend that the chat communications identified as evidence of collusion are just ordinary market conduct, and that the European Commission's May 2021 Decision, currently under appeal, does not support any theory of collusion.

Notwithstanding that Plaintiffs largely prevailed on Defendants' multiple motions to dismiss and motions for reconsideration, Plaintiffs will face continued risks in establishing liability and damages as the procedural posture of the case matures. *See In re LIBOR-Based Fin. Instruments Antitrust Litig.*, 327 F.R.D. 483, 494 (S.D.N.Y. 2018) ("*LIBOR*") ("[A]s to liability, establishing the existence and extent of a conspiracy will necessarily be a complex task, and many of the hurdles that plaintiffs have overcome at the pleading stage will raise substantially more difficult issues at the proof stage."). Settling Defendants raised arguments in negotiations with Plaintiffs and/or in motions to dismiss or for reconsideration that, if credited by the Court or jury, may limit or eliminate their liability for the damages caused by the alleged conspiracy.

If liability is established, Plaintiffs still face the risk of proving damages at trial. There is no doubt that at trial the parties would engage in a "battle of the experts" regarding proof of damages. *NASDAQ III*, 187 F.R.D. at 476. "In this 'battle of experts,' it is virtually impossible to predict with any certainty which testimony would be credited, and ultimately, which damages would be found to have been caused by actionable, rather than the myriad nonactionable factors." *In re Warner Commc'ns Sec. Litig.*, 618 F. Supp. 735, 744-45 (S.D.N.Y. 1985), *aff'd*, 798 F.2d 35 (2d Cir. 1986). There is a substantial risk that a jury might accept one or more of Defendants'

damages arguments and award far less than the funds secured by the Settlement, or even nothing at all. "[T]he history of antitrust litigation is replete with cases in which antitrust plaintiffs succeeded at trial on liability, but recovered no damages, or only negligible damages, at trial, or on appeal." *Wal-Mart*, 396 F.3d at 118; *see also In re Sumitomo Copper Litig.*, 189 F.R.D. 274, 283 (S.D.N.Y. 1999). These factors weigh in favor of approval of the Settlement.

In addition to the risks of establishing liability and damages, Plaintiffs must maintain a class through trial. *See In re AOL Time Warner, Inc. Sec. and "ERISA" Litig.*, No. 02-cv-5575 (SWK), 2006 WL 903236, at *12 (S.D.N.Y. Apr. 6, 2006) ("[T]he process of class certification would have subjected Plaintiffs to considerably more risk than the unopposed certification that was ordered for the sole purpose of the Settlement."). The class certification motion would be vigorously contested by Settling Defendants and would consume additional time and expense. Even if a litigation class were certified, that certification could be challenged on appeal, or at another stage in the litigation. *In re Visa Check/Mastermoney Antitrust Litig.*, 192 F.R.D. 68, 89 (E.D.N.Y. 2000) *aff'd*, 280 F.3d 124 (2d Cir. 2001) ("If factual or legal underpinnings of the plaintiffs' successful class certification motion are undermined once they are tested . . . , a modification of the order, or perhaps decertification, might then be appropriate."); *see also Frank v. Eastman Kodak Co.,* 228 F.R.D. 174, 186 (W.D.N.Y. 2005) ("While plaintiffs might indeed prevail [on a motion for class certification], the risk that the case might be not certified is not illusory and weighs in favor of the Class Settlement.").

"[T]he primary purpose of settlement is to avoid the uncertainty of a trial on the merits." *Matheson v. T-Bone Rest. LLC*, No. 09-4214 (DAB), 2011 WL 6268216, at *5 (S.D.N.Y. Dec. 13, 2011). Although Plaintiffs and Co-Lead Counsel firmly believe that the asserted claims are meritorious and would prevail at trial, there are obvious risks that come with continuing this

Action. The existence of these risks balanced against the immediate benefits provided by the Settlement, which resolves the Action in its entirety, weighs in favor of approving the Settlement.

2. The reaction of the Settlement Class to the Settlement supports approval (*Grinnell* Factor # 2)

While Class members continue to have an opportunity to file a claim, object, or opt out, the Settlement Class's reaction so far indicates that they favor approval of the Settlement. *Wal-Mart*, 396 F.3d at 118 ("'If only a small number of objections are received, that fact can be viewed as indicative of the adequacy of the settlement.'") (internal citation omitted). To date there are no objections to the Settlement, and no requests for exclusion have been received, while 8,103 Notice Packets have been sent to Class Members. AB Data Decl., ¶¶10, 24-25.[7]

Notably, the Settlement Class includes sophisticated, experienced institutional investors with the financial expertise and wherewithal to scrutinize the Settlement. Consequently, the lack of objections and opt-outs is a strong affirmation by the Settlement Class of its support. *In re Citigroup Inc. Sec. Litig.*, 965 F. Supp. 2d 369, 382 (S.D.N.Y. 2013) (lack of institutional investor objection to settlement is an indicia of fairness). Plaintiffs will address any objections and/or opt-outs that may be filed by the November 4, 2024 deadline in their reply to this motion.

3. The stage of the proceedings and the amount of discovery completed favors approving the Settlement (*Grinnell* Factor # 3)

The Court's primary task in examining the stage of the proceedings and the discovery completed is to assess whether the settling parties "have engaged in sufficient investigation of the facts" to understand the strengths and weaknesses of their case, and whether the settlement is

[7] On September 5, 2024, Terrence Hackett, who is not a member of the Settlement Class and does not have standing to object, filed a letter with the Court purporting to object to Co-Lead Counsel's request for attorneys' fees from the State Street settlement. ECF 508. This objection comes well after the April 10, 2023 deadline to object to the prior fee request. Moreover, the Court awarded attorneys' fees relating to the prior group of settlements on April 19, 2024, and the deadline to appeal has long passed. Accordingly, this putative objection is untimely.

adequate given those risks. *AOL Time Warner*, 2006 WL 903236, at *10. This factor does not require extensive formal discovery to have occurred, or indeed any formal discovery at all, "as long as [counsel can] 'intelligently make . . . an appraisal' of the settlement.'" *Id.* (internal citations omitted).

That inquiry is satisfied here. As described herein and in the Preliminary Approval Memorandum, Co-Lead Counsel conducted extensive factual and legal research and consulted with experts to assess the strengths and challenges of Plaintiffs' claims. *See* ECF No. 502 at 18-19; *Nissan Radiator/Transmission Cooler Litig.*, 2013 WL 4080946, at *7. Defendants' motions to dismiss, motions for reconsideration, Plaintiffs' motions to amend and Defendants' oppositions, and the Court's rulings on those motions provided further critical information that were incorporated into the evaluation of the Settlement. Plaintiffs also reviewed the settlement cooperation received from the prior settling defendants to refine Co-Lead Counsel's understanding of the strengths, challenges, and risks of the Action in advance of the settlement negotiations. In addition, Plaintiffs conducted substantial analysis of the detailed chats from the European Commission's Decision May 2021 Decision, many of which were included in their 5AC.

4. Settling Defendants' ability to withstand a greater judgment does not impact the fairness of this Settlement (*Grinnell* Factor #7)

There is little reason to doubt that Settling Defendants could withstand a greater judgment than they have agreed to pay in the Settlement, but "fairness does not require that the [defendant] empty its coffers before this Court will approve a settlement." *LIBOR*, 327 F.R.D. at 494 (internal citation omitted). Settling Defendants' ability to pay more than was offered in settlement does not indicate that the Settlement is unreasonable or inadequate. *See id.* at 495 ("this factor is intended to 'strongly favor settlement' when 'there is a risk that an insolvent defendant could not withstand

a greater judgment' but that 'the ability of defendants to pay more, on its own, does not render the settlement unfair'").

5. The Settlement is reasonable given the risks and potential range of recovery (*Grinnell* Factors #8 and 9)

These factors consider "the uncertainties of law and fact in any particular case," as well as the "risks and costs necessarily inherent in taking any litigation to completion." *See Wal-Mart*, 396 F.3d at 119. This assessment does not result in a "'mathematical equation yielding a particularized sum.'" *Massiah v. MetroPlus Health Plan, Inc*., 2012 WL 5874655, at *5 (E.D.N.Y. Nov. 20, 2012) (internal citation omitted). "The adequacy of the amount achieved in settlement is not to be judged 'in comparison with the possible recovery in the best of all possible worlds, but rather in light of the strengths and weaknesses of plaintiffs' case.'" *Meredith Corp. v. SESAC LLC*, 87 F. Supp. 3d 650, 665-66 (S.D.N.Y. 2015) (internal citation omitted). As one prominent case observed, because "the essence of a settlement is compromise, [a] just result is often no more than an arbitrary point between competing notions of reasonableness." *In re Corrugated Container Antitrust Litig.*, 659 F.2d 1322, 1325 (5th Cir. 1981).

In Co-Lead Counsel's view, given the posture of the litigation at the time of the Settlement, the $80 million Settlement proposed here, and the $120 million aggregate settlement recovery, are an excellent result. *In re PaineWebber Ltd. P'ships Litig.*, 171 F.R.D. 104, 125 (S.D.N.Y. 1997) (stating that "'great weight' is accorded to the recommendations of counsel, who are most closely acquainted with the facts of the underlying litigation") (internal citation omitted). As discussed in §I.B.1, *supra*, Plaintiffs believe they had a strong case to put forward at class certification, summary judgment, and trial, but Settling Defendants would mount a substantial defense.

A comparison between the Settlement and settlements in three other recent antitrust cases alleging manipulation of bond markets provides an objective metric of the adequacy of the

Settlement. As shown in the table below, the total recovery here of $120 million is the highest recovery relative to the U.S. market size in these bond cases.

	European Government Bonds	GSE Bonds, Case No. 19-cv-7804 (S.D.N.Y.)	Mexican Government Bonds, Case No. 18-cv-2830 (S.D.N.Y.)	SSA Bonds, Case No. 16-cv-3711 (S.D.N.Y.)
Total Settlement	$120 million	$386.5 million	$20.7 million (ongoing)	$95.5 million
U.S. Market Notional Size	$534 billion	$2 trillion	$116 billion	$720 billion
Settlement Recovery Per $1 Million Notional	$224.70	$193.20	$178.00	$132.60

Based on the significant risks of continued litigation and the Settlement amount, Plaintiffs respectfully submit the Settlement is fair, reasonable, and adequate.

6. The Distribution Plan provides an effective and equitable method for distributing relief (Rule 23(e)(2)(C)(ii) and 23(e)(2)(D))

A plan of allocation is fair and reasonable if it has a "reasonable, rational basis." *In re Flag Telecom Holdings, Ltd. Sec. Litig.*, No. 02-cv-3400 (CM) (PED), 2010 WL 4537550, at *21 (S.D.N.Y. Nov. 8, 2010); *In re Initial Pub. Offering Sec. Litig.*, 671 F. Supp. 2d 467, 497 (S.D.N.Y. 2009). Generally, a plan of allocation that reimburses class members based on the relative strength and value of their claims is reasonable. *See In re IMAX Sec. Litig.*, 283 F.R.D. 178, 192 (S.D.N.Y 2012). A plan of allocation need not be tailored to fit each class member "with mathematical precision." *PaineWebber*, 171 F.R.D. at 133. In determining whether a plan of allocation is fair and reasonable, courts give great weight to the opinion of experienced counsel. *See In re Giant Interactive Grp., Inc. Sec. Litig.*, 279 F.R.D. 151, 163 (S.D.N.Y. 2011) ("in determining whether a plan of allocation is fair, courts look primarily to the opinion of counsel"); *In re Marsh ERISA Litig.*, 265 F.R.D. 128, 145 (S.D.N.Y. 2010) (same).

As detailed in the Distribution Plan and the motion for preliminary approval of the distribution and notice plans, Co-Lead Counsel developed the Distribution Plan in consultation with an industry expert and economist based on their experience consulting on bond manipulation and financial services antitrust cases. ECF No. 311 at 5. The Net Settlement Fund represents the proceeds of ***all*** Plaintiffs' settlements to date (less Court-approved fees, costs, and expenses) and will be allocated on a *pro rata* basis according to a duration-adjusted weighting of each Authorized Claimant's transaction(s) in European Government Bonds. *Id* at 11. This is functionally the same Distribution Plan previously approved by the Court for the JPMorgan, UniCredit, and Natixis settlements. ECF Nos. 483-484, 486.

This method for distributing settlement funds has been finally approved for use in a recent antitrust case also concerning the manipulation of a bond market. *See, e.g.*, *GSE Bonds*, 414 F. Supp. 3d at 694-95 (preliminarily approving distribution plan); *In re GSE Bonds Antitrust Litig*., 19-cv-1704 (JSR), 2020 WL 3250593, at *1 (S.D.N.Y. June 16, 2020) (re-adopting its analysis to finally approve settlements and distribution plan). The Distribution Plan should be similarly approved here.

7. The proposed attorneys' fee award, reimbursement of expenses, and service awards confirm that the Class will receive substantial relief from the Settlement (Rule 23(e)(2)(C)(iii))

The attorneys' fees, litigation expenses, and service awards sought in connection with the Settlement are reasonable and ensure the Settlement Class is provided with substantial relief from the Net Settlement Fund. As disclosed in the Class Notice and the contemporaneously filed Motion for an Award of Attorneys' Fees, Litigation Expenses, and Service Awards ("Fee Brief"), Co-Lead Counsel seek 30% of the Settlement Funds ($24 million), to be paid, if approved by the Court, upon final approval of the Settlement. As more fully described in the Fee Brief, the percentage of

attorneys' fees requested is reasonable given the range of fee awards made in similarly-sized settlements in this District.

In addition, and as more fully discussed in the Fee Brief, Co-Lead Counsel seek payment for $569,350.84 in unreimbursed litigation expenses incurred from May 17, 2023 through July 18, 2024. *See Meredith Corp.* 87 F. Supp. 3d at 671 (reasonably incurred expenses may be reimbursed from the settlement fund).

Finally, and as more fully discussed in the Fee Brief, Co-Lead Counsel seek service awards for the three named plaintiffs in the total amount of $150,000 to compensate them for the significant time they devoted to this case and in recognition of the results they were crucial to obtaining. The amounts sought—$50,000 for each of the named plaintiffs—are in line with awards made in other, similar cases. *See, e.g., Laydon v. Mizuaho Bank, Ltd.*, No. 12-cv-3419, ECF 724, at 2 (S.D.N.Y. Nov. 10, 2016) (approving total service awards of $580,000 for four named plaintiffs).

In sum, the award of attorneys' fees, litigation expenses, and service awards will still leave ample funds to provide for substantial relief to the Settlement Class from the Net Settlement Fund.

8. The Settlement identifies all relevant agreements, and such agreements do not impact the adequacy of the relief (Rule 23(e)(2)(C)(iv))

The Settlement fully describes the relief to which Class Members are entitled and all agreements that may impact the Settlement. This includes disclosing the existence of a Supplemental Agreement that grants Settling Defendants the qualified right to terminate the Settlement. *See* ECF No. 503-1 ¶¶38-39. This type of agreement, often referred to as a "blow" provision, is common in class action settlements. *See, e.g.*, *GSE Bonds,* 414 F. Supp. 3d at 696 (finding that a blow provision "has no bearing on the preliminary [settlement] approval analysis"); *In re Online DVD-Rental Antitrust Litig.*, 779 F.3d 934, 948 (9th Cir. 2015).

II. THE PROPOSED SETTLEMENT CLASS SHOULD BE FINALLY CERTIFIED

Federal Rule of Civil Procedure 23(a) provides that a movant must meet four requirements to be entitled to class certification: numerosity, commonality, typicality, and adequacy of representation. In addition, Rule 23(b)(3) provides that the movant must show both that (i) common questions predominate over any questions affecting only individual members, and (ii) class resolution is superior to other available methods for the fair and efficient adjudication of the controversy.

When the Court preliminarily approved the Settlement, it found that the applicable provisions of Rule 23(a) and 23(b)(3) have been satisfied and the Court would likely be able to approve the Settlement and certify the Settlement Class. *See* ECF No. 505 ¶1. For the same reasons previously argued, the Court should grant final certification of the Class for purposes of the Settlement. 8,103 Notice Packets were mailed to potential Class Members, demonstrating the numerosity of the Settlement Class. AB Data Decl., ¶10; *see In re Initial Pub. Offering Sec. Litig.*, 260 F.R.D. 81, 90 (S.D.N.Y. 2009) ("Sufficient numerosity can be presumed at a level of forty members or more."). Commonality is easily satisfied here as Plaintiffs and the Settlement Class transacted in European Government Bonds, allege injury caused by the conspiracy to manipulate European Government Bond prices, and the success of their claims would rest on the answers to the same body of common class-wide questions of fact and law relating to issues such as the impact of the alleged manipulation on these prices. Plaintiffs' claims are typical of the Settlement Class because liability would arise from the same course of conduct, Defendants' alleged manipulation of European Government Bond prices. As noted in Part I.A, *supra*, both Plaintiffs and Co-Lead Counsel satisfy adequacy criteria.[8]

[8] Given Co-Lead Counsel's adequacy, the Court should also confirm their appointment as class counsel under FED. R. CIV. P. 23(g).

Lastly, as required by Rule 23(b)(3), common questions predominate, and a class action is the superior method for resolving this case. Predominance exists because common questions, such as whether Defendants engaged in the alleged manipulation of European Government Bond prices, and other forms of generalized proof will determine the outcome of this litigation rather than individualized proof issues. The size of the Class supports the superiority of pursuing the claims through a class action. *See In re Currency Conversion Fee Antitrust Litig.*, 224 F.R.D. 555, 566 (S.D.N.Y. 2004) (class action is "the superior method for the fair and efficient adjudication of the controversy" where the class is numerous). Moreover, a class action is superior because Settlement Class Members have no substantial interest in proceeding individually in this case, given the complexity and expense of prosecuting this Action. Accordingly, Plaintiffs respectfully request that this Court finally certify the Settlement Class.

III. THE CLASS NOTICE PLAN INFORMED THE CLASS OF THE SETTLEMENT AND SATISFIED DUE PROCESS

Rule 23(e)(1) provides that "[t]he court must direct notice in a reasonable manner to all class members who would be bound by the [settlement]." FED. R. CIV. P. 23(e)(1)(B). The standard for the adequacy of notice to the class is reasonableness. FED. R. CIV. P. 23(c)(2)(B) (for actions 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."). "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.'" *Wal-Mart*, 396 F.3d at 114. (internal citations omitted).

The Notice plan has been implemented. *See generally* AB Data Decl. Settlement Class Members have received adequate notice and have been given sufficient opportunity to weigh in on or exclude themselves from the Settlement. The Settlement Administrator has transmitted 8,103 copies of the Notice Packet to potential Class Members using contact information provided by Settling Defendants, nominees, and Defendants that Plaintiffs have previously settled with. *Id.*, ¶¶8, 10. In addition, certain Settling Defendants, prior settling Defendants, and the *EGB II* defendants have retained third-party agent, Rust Consulting Inc., which has now provided more than 9,600 copies of the Notice Packet to potential Class Members, and one Settling Defendant has supplemented with self-directed notice to its own counterparties. AB Data Decl., ¶11. The publication notice appeared in social media advertising, and banner advertisements on numerous premium trade publication-related websites and other targeted financial websites and directed potential Class Members to the Settlement website www.EuropeanGovernmentBondsSettlement.com. AB Data Decl., ¶¶12-18.

The Class Notice plan, including the content of mailed notice and publication notice, satisfy due process and Rule 23(c)(2)(B)(i)-(vii). The mailed notice and publication notice are written in clear and concise language, and reasonably convey the necessary information to the average class member. *See Wal-Mart*, 396 F.3d at 114. Class Members have been advised on the nature of the Action, including the definition of the class and the nature of the action, claims, issues and defenses. *See generally* ECF No. 503-3 (approved Notice). Class Members have been afforded a full and fair opportunity to consider the proposed Settlement, exclude themselves from the Settlement, and respond and/or appear in Court. Further, the Notice fully advised Class Members of the binding effect of the Judgment on them.

The Court should find that the Notice plan as implemented was reasonable and satisfied due process.

CONCLUSION

For foregoing reasons, Plaintiffs respectfully request that Plaintiffs' Motion for Final Approval of Settlement with the Settling Defendants be granted.

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