

**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
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**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**

Pursuant to 28 U.S.C. § 1746, we, Patrick Coughlin, Vincent Briganti, Gregory S. Ascioffa, and Todd A. Seaver declare:

1. We are, respectively, attorneys from the law firms of Scott+Scott Attorneys at Law LLP (“Scott+Scott”), Lowey Dannenberg P.C. (“Lowey Dannenberg”), DiCello Levitt LLP (“DiCello Levitt”), and Berman Tabacco (collectively, “Co-Lead Counsel”). On April 26, 2019, the Court appointed Labaton Sucharow LLP, Scott+Scott, and Lowey Dannenberg as interim co-lead counsel for the proposed class. ECF Nos. 32, 35. On April 23, 2021, the Court appointed Berman Tabacco as additional interim Co-Lead Counsel for the proposed class. ECF No. 200. On March 8, 2022, the Court granted DiCello Levitt’s motion to amend the appointment of Co-Lead Counsel to substitute DiCello Levitt for Labaton Sucharow. ECF No. 235. We have been actively involved in prosecuting and resolving this Action, are familiar with its proceedings, and have personal knowledge of the matters set forth herein. If called upon and sworn as witnesses, we would be competent to testify thereto.

2. Unless otherwise defined herein, all capitalized terms have the meanings ascribed to them in the Stipulation and Agreement of Settlement (“Stipulation”) 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, Jefferies International Limited, and Jefferies LLC, together with their affiliates and subsidiaries (“Settling Defendants”, together with Plaintiffs, the “Parties”).

3. We respectfully submit this Declaration in support of the Motion for Final Approval of Settlement between 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") and the Settling Defendants and Co-Lead Counsel's Motion for Award of Attorneys' Fees, Litigation Expenses, and Service Awards, and the accompanying memoranda of law.

I. CO-LEAD COUNSEL'S PROSECUTION OF THE ACTION

4. On January 31, 2019, the European Commission announced that it "informed eight banks of its preliminary view that they have breached EU antitrust rules by colluding, in periods from 2007 to 2012, to distort competition when acquiring and trading European government bonds."¹ The European Commission did not disclose the identity of these eight banks. Co-Lead Counsel began their investigation into the European Government Bond market immediately thereafter, investing substantial resources to learning the structure and dynamics of the market for European Government Bonds.

5. In addition to Co-Lead Counsel's own extensive market research, Co-Lead Counsel engaged leading economic consultants to assist in the investigation. Plaintiffs' consultants analyzed the price of French and Italian 10-year bonds in and around auctions for the period of 2006-2013, inclusive. Plaintiffs also retained a consultant experienced in detecting anomalous patterns in quote data. This consultant collected and analyzed millions of Italian, French, German, and Spanish government bond quotes in the secondary market from 2004 through 2015, inclusive. The database included quotes specifically attributable to individual dealers active in the European Government Bond market, allowing Plaintiffs to isolate and contrast prices quoted by specific Defendants with prices quoted by non-Defendant European Government Bond dealers.

¹ Press Release, European Commission, *Antitrust: Commission sends Statement of Objections in European government bonds cartel* (Jan. 31, 2019), https://ec.europa.eu/commission/presscorner/detail/en/ip_19_804.

6. Co-Lead Counsel also thoroughly analyzed their clients' data to confirm that Plaintiffs entered into relevant European Government Bond transactions directly with Defendants during the Class Period.

7. On March 4, 2019, Plaintiff IBEW 103 filed the first class action relating to the European Commission's investigation of the European Government Bond market in the U.S. District Court for the District of Connecticut. *Elec. Workers Pension Fund Local 103 I.B.E.W. v. Bank of Am., N.A., et al.*, No. 3:19-cv-00314 (D. Conn.). On March 22, 2019, Ohio Carpenters filed the first case in this District, *Ohio Carpenters' Pension Fund v. Bank of Am., N.A., et al.*, No. 1:19-cv-02601 (S.D.N.Y.), in what would become this consolidated action. After IBEW 103 voluntarily dismissed its action in the District of Connecticut, on April 23, 2019, Boston Retirement System ("Boston Retirement") joined the case by filing an action in this District along with IBEW 103. *Bos. Ret. Sys., et al. v. Bank of Am., N.A., et al.*, No. 19-cv-3594 (S.D.N.Y.).

8. On April 26, 2019, the Court appointed Labaton Sucharow, Scott+Scott, and Lowey Dannenberg as interim co-lead counsel for the proposed class. ECF Nos. 32, 35. On April 23, 2021, the Court appointed Berman Tabacco as additional interim Co-Lead Counsel for the proposed class. ECF No. 200. On March 8, 2022, the Court granted DiCello Levitt's motion to amend the appointment of Co-Lead Counsel to substitute DiCello Levitt for Labaton Sucharow. ECF No. 235.

9. 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 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”).

10. On July 30, 2019, Defendants served Plaintiffs with a pre-motion letter informing Plaintiffs of their intent to move to dismiss the CAC. ECF No. 68. On August 12, 2019, Plaintiffs responded to Defendants’ pre-motion letter. ECF No. 70. The parties then conferred and agreed on a schedule for Plaintiffs to amend the CAC. The Court entered the Second Amended Case Management Order, setting forth the schedule for Plaintiffs to file a Second Amended Consolidated Class Action Complaint (“SAC”). ECF No. 72.

11. On September 6, 2019, Plaintiffs filed the SAC. ECF No. 73. The SAC added allegations regarding the European Government Bond primary and secondary markets and included additional analysis of Defendants’ bid-ask spreads in 2012 and 2013.

12. On October 2, 2019, Defendants served Plaintiffs with a pre-motion letter informing Plaintiffs of their intent to move to dismiss the SAC. ECF No. 76. On October 16, 2019, Plaintiffs responded to Defendants’ pre-motion letter. ECF No. 84. The parties then conferred and agreed on a schedule for Plaintiffs to amend the SAC. The Court entered the Third Amended Case Management Order, setting forth the schedule for Plaintiffs to file a Third Amended Consolidated Class Action Complaint (“TAC”) for the limited purposes of naming additional entities as Defendants in the Action. ECF No. 85.

13. On December 3, 2019, Plaintiffs filed the TAC, which added Natixis, UBS AG, UBS Europe SE, and UBS Securities LLC (f/k/a UBS Warburg LLC) (collectively, “UBS”) as Defendants in the Action. ECF No. 87.

14. On February 26, 2020, Defendants served Plaintiffs with a pre-motion letter informing Plaintiffs of their intent to move to dismiss the TAC. ECF No. 110. On March 11, 2020, Plaintiffs responded to Defendants' pre-motion letter. ECF No. 114.

15. On July 23, 2020, the Court issued its Decision and Order granting in part and denying in part Defendants' Rule 12(b)(2) and 12(b)(6) motion to dismiss the TAC ("July 23 Decision and Order"). ECF No. 115. The Court sustained Ohio Carpenters' and IBEW 103's claim for conspiracy under Section 1 of the Sherman Act, 15 U.S.C. §1, finding that Plaintiffs had plausibly alleged a conspiracy to fix European Government Bond prices against Natixis and Nomura. *Id.* The Court, however, dismissed Defendants BAML and NatWest Markets plc on personal jurisdiction grounds. *Id.* at 15. In addition, the Court dismissed Plaintiffs' claims against BAML, UniCredit Bank AG, and UniCredit Capital Markets LLC on antitrust standing grounds and dismissed BAML, Bank of America, N.A., Merrill Lynch International, NatWest Markets plc, NatWest Markets Securities Inc., and UBS for failure to connect these Defendants to the antitrust conspiracy alleged in the TAC. *Id.* at 40, 48. The Court also dismissed Boston Retirement's claim because it transacted European Government Bonds solely with dismissed Defendants and therefore was held to not be an efficient enforcer as to Natixis and Nomura. *Id.* at 66. The Court directed Plaintiffs to inform the Court within 20 days of the July 23 Decision and Order whether they had cause to amend the TAC to replead against dismissed defendants. *Id.* at 68.

16. On August 6, 2020, Natixis and Nomura filed a motion for reconsideration of the July 23 Decision and Order, arguing that the Court should reconsider (i) Ohio Carpenters' and IBEW 103's antitrust standing against Natixis and Nomura; (ii) the sufficiency of Plaintiffs' allegations establishing the Court's jurisdiction over Natixis and Nomura; (iii) the timeliness of Plaintiffs' Sherman Act claims; and (iv) the plausibility of Plaintiffs' conspiracy allegations

against Natixis and Nomura. ECF Nos. 119-121. On August 20, 2020, Plaintiffs filed their opposition to the reconsideration motion. ECF No. 124. On August 27, 2020, Natixis and Nomura filed their reply memorandum of law in support of their reconsideration motion. ECF No. 130.

17. On August 12, 2020, in response to the Court's direction in the July 23 Decision and Order, Plaintiffs requested leave to amend the TAC to cure the deficiencies identified by the Court. ECF No. 122. The parties agreed on a schedule for amendment, permitting, among other things, Plaintiffs to file their Fourth Amended Consolidated Class Action Complaint ("FAC") 60 days after the Court's decision on Natixis and Nomura's motion for reconsideration. ECF No. 127. Accordingly, the Court entered the Stipulation and Fifth Amended Case Management Order on August 26, 2020. ECF No. 128.

18. On October 9, 2020, Plaintiffs and State Street Corporation and State Street Bank and Trust Company (together, "State Street") executed a settlement term sheet, which required State Street to immediately begin producing settlement cooperation materials.

19. On December 11, 2020, the Court issued an Order denying Natixis and Nomura's motion for reconsideration. ECF No. 139.

20. On February 9, 2021, Plaintiffs filed the FAC, which included allegations based on settlement cooperation materials provided by State Street. ECF No. 146. Based on State Street's cooperation, the FAC contained allegations based on chatroom communications showing what Plaintiffs alleged were collusive discussions among Defendants' traders in furtherance of a conspiracy to fix prices of European Government Bonds. The cooperation also assisted Plaintiffs in expanding their claims in the FAC by naming an additional 12 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 Corporation and State Street Bank and Trust Co. (“State Street”); and 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.) (“JPMorgan”).² The FAC also added SBCERA as a plaintiff and removed Boston Retirement System.

21. On April 15, 2021, Plaintiffs and State Street informed the Court in a sealed filing that they had reached a settlement and sought a stay of the case as to State Street, which the Court granted. ECF Nos. 194, 198.

22. On April 16, 2021, Defendants (except for State Street who did not move to dismiss due to the stay in place) served Plaintiffs with a pre-motion letter informing Plaintiffs of their intent to move to dismiss the FAC under Rule 12(b)(2) and 12(b)(6). *See* ECF Nos. 206-1, 206-2, 206-3. On May 17, 2021, Plaintiffs served Defendants with a letter responding to Defendants’ pre-motion letter. *See* ECF Nos. 206-4, 206-5, 206-6.

23. On May 20, 2021, the European Commission announced the issuance of a decision against Bank of America, Natixis, Nomura, NatWest, UBS, UniCredit, and WestLB for their participation in a cartel in the primary and secondary markets for European Government Bonds.³ The European Commission also imposed fines totaling over €371 million (\$454.4 million) on Nomura (€129.6 million, or \$158.5 million), UBS (€172.4 million, or \$210.9 million), and UniCredit (€69.4 million, or \$85 million). UBS received a reduction of its fine by 45% for its

² The FAC did not name BAML as a defendant.

³ Press Release, European Commission, *Antitrust: Commission fines investment banks € 371 million for participating in a European Governments Bonds trading cartel* (May 20, 2021), https://ec.europa.eu/commission/presscorner/detail/en/ip_21_2565.

cooperation with the European Commission's investigation. Further, the European Commission granted full immunity to NatWest for revealing the cartel, which avoided imposition of a €260 million (\$318.1 million) fine. No fines were imposed on Bank of America and Natixis because their activity in the cartel fell outside of the limitation period for imposition of fines by the European Commission.

24. On May 26, 2021, Plaintiffs filed a pre-motion letter requesting a conference for the purpose of filing a motion for judicial notice of the May 20, 2021 press release issued by the European Commission regarding its European Government Bonds decision. ECF No. 203. On June 4, 2021, Defendants (except for State Street who had not moved to dismiss due to the stay in place) responded to Plaintiffs' judicial notice letter and notified the Court of the parties' failure to resolve their dispute over the appropriateness of the filing of a motion to dismiss. ECF No. 206. On March 2, 2022, the Court denied Plaintiffs' pre-motion letter request for a conference. ECF No. 231. The Court stated that it would construe Plaintiffs' letter motion as a request for judicial notice, and would address that request in connection with the pending motions to dismiss the FAC. *Id.*

25. On June 15, 2021, Plaintiffs moved for preliminary approval of the settlement with State Street (ECF Nos. 207-211), which the Court granted the next day (ECF No. 212). The preliminary approval order deferred notice of the State Street settlement for 180 days following entry of the order. ECF No. 212. On December 9, 2021, Plaintiffs filed a letter requesting that the Court defer notice for an additional 90 days, which the Court granted on December 10, 2021, staying the notice deadline of the State Street Stipulation until March 14, 2022. ECF Nos. 224-225. Following a joint request by Plaintiffs and State Street, on March 7, 2022, the Court entered an order deferring notice of the State Street settlement until September 12, 2022. ECF No. 233.

26. On November 1, 2021, Plaintiffs filed a pre-motion letter requesting a conference for the purpose of filing a request for judicial notice of the European Commission's Provisional Non-Confidential Decision ("Decision") and Summary of the Decision. ECF No. 217. The 248-page Decision included chatroom communications which the European Commission found "occurred regularly, sometimes daily, in particular when EGB came up for auction. Communications could be lengthy, lasting all day or spanning multiple days." ECF No. 217-1 at 21.

27. On November 9, 2021, Defendants replied to Plaintiffs' judicial notice letter. ECF No. 222. On March 2, 2022, the Court denied Plaintiffs' pre-motion letter request for a conference. ECF No. 231. The Court stated that it would construe Plaintiffs' letter motion as a request for judicial notice, and would address that request in connection with the pending motions to dismiss the FAC. *Id.*

28. On March 14, 2022, the Court issued its Decision and Order granting in part and denying in part Defendants' Rule 12(b)(2) and 12(b)(6) motion to dismiss the FAC. ECF No. 236 ("March 14 Decision and Order"). The Court sustained Plaintiffs' claim under Section 1 of the Sherman Act, 15 U.S.C. §1, against Natixis, Nomura,⁴ UniCredit, Citigroup, and Jeffries. *Id.* The Court, however, dismissed Defendant NatWest Markets plc on personal jurisdiction grounds. *Id.* In addition, the Court dismissed Plaintiffs' claims against UniCredit Capital Markets LLC on antitrust standing grounds, dismissed Plaintiffs' claims against JPMorgan as untimely, and dismissed BAML, NatWest, RBC, UniCredit Capital Markets LLC, and UBS for failure to connect these Defendants to the antitrust conspiracy alleged in the FAC. *Id.*

⁴ Plaintiffs subsequently voluntarily dismissed Nomura Securities International Inc.

29. On March 28, 2022, UniCredit and Natixis filed separate motions for reconsideration of the March 14 Decision and Order, while Citigroup and Jefferies filed a joint motion for reconsideration of the order. ECF Nos. 238-243. On April 15, 2022, Plaintiffs filed an omnibus opposition to these Defendants' motions for reconsideration of the March 14 Decision and Order. ECF No. 248. UniCredit, Natixis, Citigroup, and Jefferies filed three reply memoranda of law in support of their motions for reconsideration on April 28, 2022. ECF Nos. 250-253.

30. On April 29, 2022, Plaintiffs moved for preliminary approval of the JPMorgan settlement. ECF Nos. 254-57. The Court preliminarily approved the JPMorgan settlement on May 2, 2022, ordering that notice of the JPMorgan settlement be deferred until September 12, 2022. ECF No. 258. On September 12, 2022, the Court granted a 60-day extension of the deadline for notice until November 11, 2022. ECF No. 284. On November 11, 2022, Plaintiffs moved for preliminary approval of the notice program and plan of distribution. ECF Nos. 309-312. On November 17, 2022, the Court preliminarily approved the proposed notice program and plan of distribution. ECF No. 315. Accordingly, notice of the State Street and JPMorgan settlements commenced on February 1, 2023. *Id.*, ¶4. However, due to issues with disseminating notice to certain non-settling Defendants' counterparties, the Court vacated all deadlines for the State Street and JPMorgan settlements on March 21, 2023. ECF No. 335.

31. On June 16, 2022, the Court denied UniCredit's, Natixis's, and Citigroup and Jefferies' motions for reconsideration of the March 14 Decision and Order in their entirety. ECF No. 270.

32. On July 19, 2022, the Court entered the Civil Case Management Plan and Scheduling Order (the "Case Management Plan"), which ordered Plaintiffs to file any amended

pleadings no later than October 17, 2022. ECF No. 275. This deadline was subsequently extended to November 7, 2022. ECF No. 298.

33. On August 12, 2022, Plaintiffs and Natixis, Nomura International plc, UniCredit, Citigroup Global Markets Limited, Citigroup Global Markets Inc., Jefferies International Limited, and Jefferies LLC (“Remaining Defendants”) held an initial discovery conference.

34. On August 19, 2022, Plaintiffs and Remaining Defendants exchanged initial disclosures and initial requests for production of documents. On September 15, 2022, Remaining Defendants served amended initial disclosures.

35. On September 16, 2022, the Court approved the parties’ negotiated Electronically-Stored Information Protocol and Protective Order governing the discovery of confidential information. ECF Nos. 291-292.

36. On September 16, 2022, Plaintiffs, as required under the Case Management Plan, produced their European Government Bond trading records and cooperation materials produced by State Street and JPMorgan. That same day, UniCredit and Nomura International plc substantially completed the Case Management Plan-required production of documents they produced to the European Commission in connection with its investigation. Because Natixis is subject to French laws restricting dissemination of certain materials to U.S. parties, Natixis did not substantially complete production of its European Commission documents until October 7, 2022.

37. On September 22, 2022, Plaintiffs and Remaining Defendants exchanged responses to the first sets of requests for production.

38. On November 7, 2022, Plaintiffs filed a motion for leave to amend the Fourth Amended Complaint and attached a [Proposed] Fifth Amended Complaint. ECF Nos. 302-306. In the Fifth Amended Complaint (“5AC”), Plaintiffs sought to rename previously dismissed

Defendants Bank of America, UBS, and NatWest, relying chiefly on cooperation obtained from JPMorgan, evidence described in the European Commission’s decision on its investigation into the European Government Bond market, and evidence obtained by Plaintiffs in the normal course of discovery. On December 19, 2022, Defendants filed their opposition to Plaintiffs’ motion to amend. ECF No. 320. Plaintiffs filed their reply brief on January 13, 2023. ECF No. 326.

39. While the motion to amend was pending before the Court, Plaintiffs and Remaining Defendants stipulated, and the Court so ordered, that all deadlines in the Case Management Plan were vacated pending the Court’s resolution of the motion to amend. ECF No. 332.

40. On May 12, 2023, Plaintiffs moved for preliminary approval of settlements with Natixis and UniCredit. ECF Nos. 347–352. The settlements included an additional \$27 million in monetary recovery and cooperation for use in this case and the related case *Ohio Carpenters’ Pension Fund v. Deutsche Bank AG*, No. 22-cv-10462 (S.D.N.Y.) (“*EGB IP*”), against Coöperatieve Rabobank U.A. and Rabo Securities USA, Inc. (together, “Rabobank”) and Deutsche Bank AG and Deutsche Bank Securities Inc. (together “Deutsche Bank”). On May 16, 2023, the Court granted preliminary approval of settlements with Natixis and UniCredit. ECF Nos. 353, 354. On the same day, the Court preliminarily approved the proposed notice program 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. ECF No. 355.

41. On May 19, 2023, Rabobank and Deutsche Bank filed a letter motion objecting to the proposed settlement with Natixis and UniCredit, arguing that inclusion of Rabobank and Deutsche Bank in the stipulations’ definition of “Defendants” was improper. They argued that the settlements would extinguish their rights to contribution against UniCredit and Natixis, and they would be burdened with discovery. ECF No. 365. On May 24, 2023, Plaintiffs responded to

Rabobank and Deutsche Bank's letter and argued that the Court should overrule Rabobank and Deutsche Bank's objection. ECF No. 358. On May 31, 2023, Defendants filed their reply to Plaintiffs' response. ECF No. 361.

42. On May 31, 2023, Plaintiffs requested that the Settlement Hearing be rescheduled to ensure that class members who wished to opt out could do so prior to the Settlement Hearing and/or have their objections considered and addressed at the Settlement Hearing. ECF No. 362. On June 1, 2023, the Court rescheduled the Settlement Hearing to January 5, 2024. ECF No. 363.

43. On June 8, 2023, Plaintiffs issued subpoenas duces tecum to Rabobank and Deutsche Bank seeking those entities' counterparties' information.

44. On June 27, 2023, the Court sustained Rabobank and Deutsche Bank's objection to their inclusion as "Defendants" in the proposed settlement with Natixis and UniCredit. ECF. No. 370.

45. On July 11, 2023, Plaintiffs filed proposed amended stipulations with Natixis and UniCredit and preliminary approval orders in accordance with the Court's June 27, 2023 Order. ECF Nos. 375–377. As part of those proposed orders, Plaintiffs proposed commencing notice to settlement class members on September 5, 2023. On July 12, 2024, the Court approved the amended preliminary approval orders. ECF Nos. 381, 382. Following entry of preliminary approval, Co-Lead Counsel commenced a notice program that required the cooperation of not just Defendants (current, settled, or dismissed), but also non-parties Deutsche Bank and Rabobank. Co-Lead Counsel devised a reasonable notice program to ensure direct mailings to potential settlement class members while also protecting the confidences of the banks, namely through use of a third-party noticing agent.

46. On July 11 and July 18, 2023, Rabobank and Deutsche Bank filed their letter motions to quash Plaintiffs' subpoenas. ECF Nos. 378, 386. On July 20, 2023, Plaintiffs filed their response. ECF No. 387.

47. On August 4, 2023, Magistrate Judge Netburn held a hearing on the motion to quash and denied the motion. ECF Nos. 388, 396. Magistrate Judge Netburn denied motion to quash and determined the Court had jurisdiction over Rabobank and Deutsche Bank because the requested documents related directly to those entities' contacts with the forum. *Id.* The Court further ruled that the documents were necessary to effectuate the best notice practicable to settlement class members of the Natixis and UniCredit settlements and there was no undue burden to Rabobank or Deutsche Bank in complying with the subpoena. *Id.*

48. On September 25, 2023, the Court granted Plaintiffs' motion to amend the FAC. ECF No. 402. The Court concluded that the proposed 5AC, which sought to return Defendants UBS, NatWest, and Bank of America to the case as defendants, would likely survive a motion to dismiss and thus the proposed amendment was not futile. *Id.* As part of its order, the Court ruled that the amendments in the 5AC showed "proactive conduct and explicit assent among the traders in the chatrooms, including NatWest and UBS traders, to fix prices in the Primary and Secondary Markets." *Id.*

49. On October 16, 2023, Plaintiffs filed the 5AC. ECF No. 410. Thereafter, on October 17, 2023, the Parties met and conferred on scheduling to submit a case management plan and scheduling order to the Court.

50. On October 25, 2023, Plaintiffs and Defendants UBS, NatWest, and Bank of America submitted a proposed case management plan and scheduling order, which required the

parties to complete fact discovery by March 21, 2025. ECF Nos. 412, 413. On October 26, 2023, the Court approved the submitted case management plan and scheduling order. ECF No. 414.

51. On October 30, 2023, Plaintiffs moved for final approval of the class action settlements with State Street, JPMorgan, Natixis, and UniCredit and for an interim award of attorneys' fees and reimbursement of expenses. ECF Nos. 418–423.

52. On November 2, 2023, Terrence J. Hackett filed the first of his multiple objections to the State Street settlement negotiated in the Action. ECF No. 424. Mr. Hackett primarily objected to the prior State Street settlement due to his purported role as a whistleblower to the Securities and Exchange Commission. *See* ECF Nos. 424, 429, 465, 482, 495, 498.⁵

53. On November 17, 2023, Plaintiffs requested an extension of time for certain objection and opt-out deadlines due to delays in mailing notice packets to a small subset of counterparties of Citigroup and Deutsche Bank. ECF No. 426. On November 20, 2023, the Court granted Plaintiffs' request and amended certain objection and opt-out deadlines. ECF No. 427.

54. On December 7, 2023, Nomura Securities International, Inc. ("NSI") and the Plaintiffs wrote to inform the Court that NSI would not file an answer to the Fifth Amended Complaint in light of the December 22, 2022 Stipulation of Dismissal. ECF No. 430. On December 8, 2023, the Court dismissed NSI from the Action. ECF No. 431.

⁵ 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 deadline to appeal has long passed. Accordingly, this putative objection is untimely.

55. On December 15, 2023, Defendants Citigroup, Nomura International PLC, Jefferies, NatWest, UBS, and Bank of America filed their Answers to the Fifth Amended Complaint. ECF Nos. 433–435, 438, 440, 442.

56. Beginning on November 15, 2023, the Parties met and conferred multiple times to discuss the parameters of a deposition protocol. On December 15, 2023, the Parties filed the Stipulation and Order Regarding Deposition Protocol, which the Court “so ordered” on December 18, 2023. ECF Nos. 437, 445.

57. On December 27, 2023, Plaintiffs served on the Settling Defendants the First Set of Requests for the Production of Documents. On January 26, 2024, the Settling Defendants served their objections and responses to the First Set of Requests for Production of Documents.

58. Beginning on December 12, 2023, the Parties met and conferred multiple times to discuss the parameters of a data privacy order. These negotiations were extensive and required the Parties to submit a request for a short extension on January 5, 2024 while negotiations continued in good faith. ECF No. 446. The Court approved the extension on January 8, 2024. ECF No. 447.

59. On January 12, 2024, the Parties filed the Stipulation and [Proposed] Data Privacy Order. ECF No. 448. On January 16, 2024, the Court entered the Data Privacy Order. ECF No. 449.

60. On January 12, 2024, the Settling Defendants propounded on Plaintiffs their First Set of Requests for the Production of Documents. On February 12, 2024, Plaintiffs served on the Settling Defendants objections and responses to the Settling Defendants’ First Set of Requests for the Production of Documents.

61. On January 19, 2024, Plaintiffs requested another extension of time for certain objection and opt-out deadlines due to delays in mailing notice packets to a small subset of

counterparties of Citigroup. ECF No. 450. On January 22, 2024, the Court granted Plaintiffs' request and amended certain objection and opt-out deadlines related to the Natixis and UniCredit settlements. ECF No. 451.

62. On January 31, 2024, pursuant to the October 26, 2023 Case Management Plan and Scheduling Order, Plaintiffs completed their production of their EGB trading records and cooperation materials received from previously settled Defendants (State Street, JP Morgan, Natixis, and UniCredit). On the same day, UBS and NatWest completed their production of underlying documents that were previously produced to the European Commission.

63. Thereafter, Plaintiffs reviewed the 3,890 documents in UBS and NatWest's production of European Commission documents and began conferrals with the Settling Defendants regarding Settling Defendants' responses and objections to Plaintiffs' requests for production of documents. In total, Plaintiffs received and reviewed 37,816 pages of documents in connection with the earlier settlements and produced by the certain defendants in discovery, including chatroom transcripts involving each of the Settling Defendants' trades. Co-Lead Counsel worked with experts to interpret trading data produced by certain settling defendants for the purposes of putting forward economic models at class certification and summary judgment.

64. On March 20, 2024, Plaintiffs wrote under seal to inform the Court of the agreement in principle with the Settling Defendants to settle the remainder of the Action. ECF No. 464. Plaintiffs also requested relief from the Court's March 12, 2024 Order to provide a status update regarding discovery deadlines by March 22, 2024. ECF No. 461. On March 22, 2024, the Court granted Plaintiffs' requested relief. ECF No. 467.

65. On April 1, 2024, Plaintiffs filed their reply memoranda of law in support of final approval of the State Street, JPMorgan, Natixis and UniCredit settlements and request for an award

of interim attorneys' fees, and reimbursement of expenses. ECF No. 469, 470. On April 18, 2024, Plaintiffs filed their Proposed Judgment Approving Class Action Settlements and Proposed Order Awarding Interim Attorneys' Fees and Reimbursement of Expenses. ECF Nos. 473-481. The Court held the Settlement Hearing on April 19, 2024, to consider final approval of the State Street, JPMorgan, Natixis and UniCredit settlements, the requested award of interim attorneys' fees, and request for reimbursement of expenses. Following the hearing, the Court entered Judgments approving the State Street, JPMorgan, Natixis and UniCredit settlements, and entered an order granting an award of interim attorneys' fees, and reimbursement of expenses to Co-Lead Counsel. ECF Nos. 483-487.

II. THE SETTLEMENT WITH THE SETTLING DEFENDANTS

66. In July 2023, Plaintiffs and the Settling 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) first began discussing the possibility of a global settlement to resolve the remaining claims in the Action.

67. In October 2023, Plaintiffs and the Settling Defendants, through their respective counsel, engaged in settlement negotiations again in earnest. Counsel each expressed their views of the merits of the Action and the Settling Defendants' involvement in the alleged conspiracy. However, Plaintiffs and the Settling Defendants were unable to come to an agreement at that time and negotiations ceased.

68. In December 2023, Plaintiffs and the Settling Defendants, through their respective counsel, resumed settlement negotiations. During the negotiations, each side presented its view of

the Action, including the likelihood of success at the class certification and summary judgment stages, and Plaintiffs described the Settling Defendants' role in the conspiracy alleged in the Fifth Amended Complaint.

69. The Parties continued to engage in settlement negotiations for several months. On March 8, 2024, after extensive arm's-length negotiations between experienced counsel, Plaintiffs and the Settling Defendants reached a tentative understanding on the material monetary and other terms of a settlement. 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, after months of negotiating, the Parties executed the Stipulation. ECF No. 503-1 ("Stip.").

70. The Settlement provides valuable consideration for the benefit of the Settlement Class. Settling Defendants have agreed to pay \$80 million collectively into a Settlement Fund for the benefit of all Settlement Class Members. Stip., ¶ 13. This is not a claims-made settlement; therefore, no portion of the Settlement Fund will return to the Settling Defendants. *Id.*, ¶ 20.

71. On July 26, 2024, Co-Lead Counsel moved for preliminary approval of the Settlement with Settling Defendants. ECF No. 501. On July 29, 2024, the Court granted preliminary approval of the Settlement with Settling Defendants. ECF No. 505.

72. The Court set August 19, 2024, as the date to commence notice (the "Notice Date"). Co-Lead Counsel and the Claims Administrator began to effectuate notice in accordance with the notice plan (ECF No. 503-2) and started sending out Notice Packets to members of the Settlement Class on August 19, 2024.

73. Further, the Claims Administrator distributed the Summary Notice via a press release on PR Newswire on August 19, 2024. The Claims Administrator has also started the digital and social media notice campaign as outlined in the approved notice plan.

74. To date, Co-Lead Counsel and the Claims Administrator have received no objections and no requests for exclusion, while more than 8,103 Notice Packets have been sent to members of the Settlement Class. Declaration of Jack Ewashko on Behalf of A.B. Data, Ltd. Regarding Notice Administration ¶¶7, 9-10, 24-25.

75. Co-Lead Counsel and Claims Administrator will continue to do work in accordance with the notice and distribution plans going forward.

III. ATTORNEY TIME AND EXPENSES INVESTED IN THIS LITIGATION

76. Co-Lead Counsel expended considerable time and effort over the last five years in investigating, developing, and litigating this matter from inception of the matter through July 18, 2024, the date the Parties signed the Stipulation with Settling Defendants.

77. Prior to the filing of the first complaints in this matter—the *IBEW* and *Ohio Carpenters*' actions—Co-Lead Counsel had separately begun investigating potential claims held by U.S. investors in European Government Bonds, which included speaking with consultants and industry experts to understand the mechanics and operation of the European Government Bond market.

78. After the actions were consolidated before this Court, Co-Lead Counsel worked cooperatively and diligently to continue investigating and developing the factual underpinnings of their claims. In connection with these efforts, Co-Lead Counsel coordinated the retention of consultants and industry experts and spent considerable time communicating with them about the facts surrounding the operation of the European Government Bond market and working with them on analyses that were included in Plaintiffs' consolidated and amended pleadings.

79. Co-Lead Counsel spent significant time and effort drafting multiple consolidated and amended pleadings, as new evidence and facts came to light because of Co-Lead Counsel's

investigation. And after the filing of each pleading, Co-Lead Counsel dedicated significant time in responding to and opposing multiple rounds of motion to dismiss letter briefing and motions for reconsideration. Co-Lead Counsel's efforts on these fronts were largely successful.

80. Co-Lead Counsel also undertook considerable efforts in reviewing and analyzing the settlement cooperation materials produced by the previously settling Defendants and the 248-page public version of the European Commission Decision. These efforts enabled Plaintiffs to expand the number of defendants in this Action and recovery to the Class. For example, JPMorgan itself was not identified as a target of the European Commission's investigation, but Plaintiffs' review of the cooperation materials from State Street enabled Plaintiffs to identify JPMorgan as a defendant and secure a \$13 million settlement from it.

81. Finally, Co-Lead Counsel spent considerable time engaging in hard-fought, arm's-length settlement negotiations with Defendants, and having multiple rounds of discussions with each Settling Defendant. These negotiations produced, in Co-Lead Counsel's view, an excellent result for the Class – an \$80 million settlement with Settling Defendants, which, together with the prior settlements of \$40 million, a total of \$120 million in the Settlement Fund for the benefit of the Class.

82. We, Patrick Coughlin, Vincent Briganti, Gregory S. Ascioffa, and Todd A. Seaver were primarily responsible for developing and executing the case strategy and were assisted by our fellow partners and associates at their respective firms. As Co-Lead Counsel's firm résumés and attorney bios (ECF Nos. 312-7, 312-8, 317-9, and 317-10) demonstrate, Co-Lead Counsel are experienced and skilled litigators in the antitrust and commodities litigation fields and have successful track records in some of the largest class actions throughout the country, including within this Circuit.

83. On October 30, 2023, Co-Lead Counsel moved for an interim award of 30% of the then-Settlement Fund of \$40 million (\$12,000,000) in attorneys' fees based on 15,048.80 hours of work, and reimbursement for costs and expenses totaling \$775,003.70, for the period from case inception through May 16, 2023, the date Plaintiffs settlements with UniCredit and Natixis received initial preliminary approval. ECF No. 421. The Court ordered this award of attorneys' fees and payment of litigation expenses on April 19, 2024. ECF No. 487.

84. Thereafter, from May 17, 2023 (the day after the Court granted preliminary approval of the UniCredit and Natixis settlements) to July 18, 2024 (the date the Parties signed the Stipulation with Settling Defendants), Co-Lead Counsel worked an additional 4,875.8 hours for a lodestar of \$3,985,394.50. Accordingly, the total number of hours worked on the case from inception through July 18, 2024 is 19,924.60, for a total lodestar of \$16,232,698.00. Lodestar was calculated using the firms' 2023 rates, the same rates the Court approved in Co-Lead Counsel's prior interim fee application. Therefore, the attorneys' fee request of 30% of the \$80 million settlement (\$24,000,000) would result in a total fee award of \$36 million for the entire litigation, based on a total lodestar of \$16,232,698.00 resulting in an overall risk multiplier on the lodestar of 2.2.

85. Experienced attorneys at our respective firms undertook discreet tasks appropriate for their levels of expertise, skill, and experience, and more junior attorneys, paralegals, and professionals worked on matters more appropriate for their experience levels. Co-Lead Counsel maintained daily control and monitored the work performed by the attorneys, paralegals, and professionals in this case. Throughout the prosecution of this Action, work assignments were also allocated among Co-Lead Counsel in a manner that ensured efficiency and avoided unnecessary duplication of effort.

86. In addition to the case-related risks discussed in the concurrently filed memoranda, Co-Lead Counsel bore the risk of litigating and funding this Action entirely on a contingent basis. Indeed, after the prior round of settlements and first fee award were approved, Co-Lead Counsel continued to heavily invest in the Action without any guarantee that Co-Lead Counsel would receive additional compensation for time or expenses they continued to incur as discovery proceeded apace and the parties prepared for class certification and summary judgment proceedings. Co-Lead Counsel continued to assume significant litigation risks, including that the Court could deny Plaintiffs' anticipated motion to certify the Class and grant any *Daubert* motions and/or motions for summary judgment filed by Defendants. There are numerous examples where plaintiffs' counsel in contingency-fee cases have worked thousands of hours and advanced substantial sums of money, only to receive no compensation. From personal experience, Co-Lead Counsel are fully aware that despite the most vigorous and competent of efforts, a law firm's success in contingent litigation on behalf of a class such as this is never guaranteed.

87. Throughout this Action's pendency, Co-Lead Counsel have ensured that sufficient attorney resources were dedicated to prosecuting the claims. Because this is an antitrust class action in the financial services industry, Co-Lead Counsel understood from the commencement of the Action that this would be an expert-intensive case, with the added costs and complications that are entailed. Co-Lead Counsel ensured sufficient funds were available to advance the expenses required to prosecute the Action, including engaging and working with industry experts, finance professors, an econometrician, and an industrial organization economist. In total, from May 17, 2023 to July 18, 2024, there are \$569,350.84 in unreimbursed litigation expenses. Co-Lead Counsel's investment of this amount of hard costs demonstrates the commitment, as well as the risk, Co-Lead Counsel were willing to take in prosecuting the case.

88. Co-Lead Counsel were responsible for collecting and reviewing the attorney and paralegal time and expense reports related to the case, including the detailed time records which reflected the contemporaneous time recorded throughout the litigation. Summaries of the lodestar and expenses incurred by each firm can be found in each firm's separate declaration in support of the Fee and Expense Motion. Each Co-Lead Counsel firm audited the time and lodestar for accuracy, necessity, and reasonableness. Attached as Exhibits A through D hereto are the declarations from each Co-Lead Counsel detailing each Co-Lead Counsel firm's respective hours, billing rates, and litigation expenses.⁶ As a result of this review, where appropriate, time and lodestar were reduced in the exercise of billing judgment. Lodestar figures do not include charges for expense items.

89. The following table shows the total hours and total lodestar using 2023 rates and the expenses for each of the Co-Lead Counsel firms in this litigation:

FIRM NAME	HOURS FROM INCEPTION THROUGH MAY 16, 2023	HOURS FROM MAY 17, 2023 THROUGH JULY 18, 2024	TOTAL HOURS	LODESTAR FROM INCEPTION THROUGH MAY 16, 2023	LODESTAR FROM MAY 17, 2023 THROUGH JULY 18, 2024	TOTAL LODESTAR
Scott+Scott	5,463.10	1,155.40	6,618.50	\$4,583,181.00	\$896,556.50	\$5,479,737.50
DiCello Levitt	942.4	864.5	1,806.90	\$906,253.50	\$700,912.00	\$1,607,165.50
Lowey Dannenberg	4,896.10	1,479.70	6,375.80	\$4,097,047.50	\$1,560,842.50	\$5,657,890.00
Berman Tabacco	2,534.50	1,376.20	3,910.70	\$1,675,867.00	\$827,083.50	\$2,502,950.50
Labaton Sucharow	1,212.70	0	1,212.70	\$984,954.50	\$0	\$984,954.50
TOTALS	15,048.80	4,875.80	19,924.60	\$12,247,303.50	\$3,985,394.50	\$16,232,698.00

⁶ There is no declaration from Labaton Sucharow (now Labaton Keller Sucharow LLP) because it had no additional time in this case during the time period from May 17, 2023 through July 18, 2024.

90. From the inception of this Action, Co-Lead Counsel were aware that they might not recover any of the expenses they incurred in prosecuting the Action and, at a minimum, would not recover any expenses until the Action was successfully resolved, or partially resolved. Co-Lead Counsel also understood that, even assuming the Action was ultimately successful, an award of expenses would not compensate them for the lost use or opportunity cost of funds advanced to prosecute the claims against Settling Defendants. Thus, Co-Lead Counsel were motivated to, and did, take steps to minimize expenses whenever practicable without jeopardizing the vigorous and efficient prosecution of the Action. The majority of expenses incurred were paid out of a litigation fund created by Co-Lead Counsel and maintained by Scott+Scott (the "Litigation Fund"). Payment of expenditures from the Litigation Fund required personal approval from Scott+Scott partners. The Litigation Fund was fully funded by Co-Lead Counsel.

91. Previously, the Litigation Fund had paid or incurred expenses from inception of the Action through May 16, 2023, totaling \$691,721.89. Co-Lead Counsel were awarded payment for these expenses when the Court entered an order granting the award of interim attorneys' fees and reimbursement of litigation expenses. ECF No. 487.

92. In total, from May 17, 2023 to July 18, 2024, there are \$569,350.84 in unreimbursed litigation expenses. Of this total, the Litigation Fund has paid or incurred expenses from May 17, 2023, through July 18, 2024 totaling \$517,030.61. A summary of the expenses paid and incurred by the Litigation Fund by category is set forth in Exhibit 4 to the Declaration of Daryl F. Scott, which is attached as Exhibit A to this Declaration.

93. The balance, \$52,320.23, was paid or incurred by the Co-Lead Counsel firms and is summarized in each firm's separate declaration (attached as Exhibits A-D of this Declaration) and totaled by expense category in the table that follows:

EXPENSE CATEGORY	AMOUNT
Courier	\$746.77
Court Costs	\$200.00
Discovery/ Document Hosting / Management	\$28,189.96
Experts / Consultants	\$1,400.00
Federal Express	\$___
Filing, Witness & Other Fees	\$403.00
Online Research (Lexis/Westlaw)	\$3,898.78
Litigation Fund Expenses	\$___
Miscellaneous	\$1,591.90
Photocopies	\$1,930.47
Postage	\$1.28
Service of Process	\$___
Telephone, Facsimile	\$___
Travel (Meals, Hotels & Transportation)	\$13,958.07
TOTAL	\$52,320.23

IV. CLASS REPRESENTATIVES' CONTRIBUTION TO THE PROSECUTION OF THIS CASE

94. The Class Representatives' involvement in this case was instrumental to the outstanding result achieved in the case and justifies service awards for each one of them. In short, the recovery of \$120 million in total would not have happened if these entities had not stood up and represented the Class.

95. Throughout this litigation, Class Representatives were actively engaged in litigation efforts. A summary of the efforts of each Class Representative is provided in Exhibits A, B, and D hereto.

96. The Class Representatives were never promised any additional compensation for leading the case; rather, the Class Representatives devoted their time and efforts solely to recover some portion of their own overcharges and to enable other Class members to recover theirs. The time and effort devoted by Class Representatives were instrumental in obtaining this result for the Class and should be recognized with an award a total of \$150,000—\$50,000 for each—in service awards for the three Class Representatives.

97. As described in the accompanying memorandum in support of the Motion for Final Approval of Settlement and the memorandum in support of the Motion for Award of Attorneys' Fees, Litigation Expenses, and Service Awards, Co-Lead Counsel respectfully request that the motions be granted.

I, Patrick Coughlin, declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on October 18, 2024.



Patrick Coughlin

I, Vincent Briganti, declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on October 18, 2024.

Vincent Briganti

I, Gregory S. Ascioffa, declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on October 18, 2024.

Gregory S. Ascioffa

I, Todd A. Seaver, declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on October 18, 2024.

Todd A. Seaver

I, Patrick Coughlin, declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on October 18, 2024.

Patrick Coughlin

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Vincent Briganti

I, Gregory S. Ascioffa, declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on October 18, 2024.



Gregory S. Ascioffa

I, Todd A. Seaver, declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on October 18, 2024.

Todd A. Seaver

