UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM, *et al.*, Plaintiffs, v. BANK OF AMERICA CORPORATION, *et al.*, Defendants.	Case No. 17-cv-6221 (KPF) Hon. Katherine Polk Failla

NOTICE OF PLAINTIFFS' MOTION FOR PRELIMINARY APPROVAL OF THE SETTLEMENT AGREEMENT WITH CREDIT SUISSE

PLEASE TAKE NOTICE that, upon the accompanying memorandum of law, the Declaration of Daniel L. Brockett and the exhibits attached thereto, and the record herein, Plaintiffs, by and through their undersigned counsel, will respectfully move this Court, before the Honorable Katherine Polk Failla, United States District Judge for the Southern District of New York, Thurgood Marshall United States Courthouse, 40 Foley Square, New York, New York 10007, at a date and time to be determined by this Court, for entry of the proposed order preliminarily approving the Settlement Agreement between Plaintiffs and Credit Suisse Group AG, Credit Suisse AG, Credit Suisse Securities (USA) LLC, Credit Suisse First Boston Next Fund, Inc., and Credit Suisse Prime Securities Services (USA) LLC pursuant to Rule 23 of the Federal Rules of Civil Procedure, certifying the Settlement Class, and appointing Class Counsel and Class Representatives for the Settlement Class. This [Proposed] Preliminary Approval Order has been agreed to by Plaintiffs and the Defendants Credit Suisse Group AG, Credit Suisse

AG, Credit Suisse Securities (USA) LLC, Credit Suisse First Boston Next Fund, Inc., and Credit Suisse Prime Securities Services (USA) LLC, and consists of:

(1) preliminarily approving the settlement set forth in the Settlement Agreement;

(2) preliminarily certifying the following Settlement Class for purposes of settlement only:

> All Persons or entities who, directly or through an agent, entered into Stock Loan Transactions[1] with the Prime Broker Defendants,[2] direct or indirect parents, subsidiaries, or divisions of the Prime Broker Defendants, or the Released Credit Suisse Parties,[3] in the United States from January 7, 2009 through the Execution Date[4] (the "Settlement Class Period"), inclusive. Excluded from the Settlement Class are Defendants and their employees, affiliates, parents, subsidiaries, and co-conspirators, should any exist, whether or not named in the Amended Complaint, entities which previously requested exclusion from any Class in this Action,[5] the United States Government, and all of the Released Credit Suisse Parties, provided, however, that Investment Vehicles[6] shall not be excluded from the definition of the Settlement Class.

[1] "Stock Loan Transaction" means any transaction, including any transaction facilitated by a prime broker or agent lender, in which an owner of a stock temporarily lends the stock in exchange for collateral or in which a borrower of a stock provides collateral to temporarily borrow a security, and in which the stock is ultimately returned to the lender at a later date, at which time the lender returns the collateral to the borrower. "Stock Loan Transactions" do not include non-equity securities lending or stock repurchase (repo) transactions.

[2] "Prime Broker Defendants" means Settling Defendants and Bank of America Merrill Lynch, Goldman Sachs, Morgan Stanley, JPMorgan, and UBS, including affiliates named in the Amended Complaint (ECF No. 73).

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

[4] The "Execution Date" is January 20, 2022.

[5] These entities are Citadel LLC, Two Sigma Investments, PDT Partners, Renaissance Technologies LLC, TGS Management, Voloridge Investment Management, and the D.E. Shaw Group and their corporate parents, subsidiaries, and wholly owned affiliates.

[6] "Investment Vehicles" means any investment company or pooled investment fund, including, but not limited to: (i) mutual fund families, exchange-traded funds, fund of funds and hedge funds, in which a Defendant has or may have a direct or indirect interest, or as to which its

(3) preliminarily appointing Quinn Emanuel Urquhart & Sullivan, LLP and Cohen Milstein Sellers & Toll PLLC as Co-Lead Counsel for the Settlement Class;

(4) preliminarily appointing Plaintiffs as class representatives for the Settlement Class;

(5) ordering that Plaintiffs shall, at a later practicable date, submit for the Court's approval a proposed Plan of Allocation of the Settlement Amount and a proposed notice plan;

(6) preliminarily approving Epiq Class Action & Claims Solutions, Inc. as Settlement Administrator, the Huntington National Bank as Escrow Agent and preliminarily approving certain administrative expenses to be paid as agreed to by the parties in the Settlement Agreement;

(7) preliminarily approving the establishment of escrow accounts under the Settlement Agreement as Qualified Settlement Funds;

(8) staying all proceedings in the action with respect to the Settling Defendants; and

(9) granting such other and further relief as the Court deems just and proper.

---

affiliates may act as an investment advisor, but of which a Defendant or its respective affiliates is not a majority owner or does not hold a majority beneficial interest, and (ii) any Employee Benefit Plan as to which a Defendant or its affiliates acts as an investment advisor or otherwise may be a fiduciary.

DATED: February 11, 2022

Respectfully submitted,

COHEN MILSTEIN SELLERS & TOLL PLLC

By: /s/ Michael B. Eisenkraft
Michael B. Eisenkraft
Christopher J. Bateman
David O. Fisher
88 Pine Street, 14th Floor
New York, New York 10005
Telephone: (212) 838-7797
meisenkraft@cohenmilstein.com
cbateman@cohenmilstein.com
dfisher@cohenmilstein.com

Julie G. Reiser (*pro hac vice*)
Richard A. Koffman (*pro hac vice*)
Kit A. Pierson (*pro hac vice*)
Emmy L. Levens (*pro hac vice*)
Daniel McCuaig (*pro hac vice*)
Robert W. Cobbs (*pro hac vice*)
1100 New York Ave NW, Suite 500
Washington, DC 20005
Telephone: (202) 408-4600
jreiser@cohenmilstein.com
rkoffman@cohenmilstein.com
kpierson@cohenmilstein.com
elevens@cohenmilstein.com
dmccuaig@cohenmilstein.com
rcobbs@cohenmilstein.com

SAFIRSTEIN METCALF LLP
Peter Safirstein
1345 Avenue of the Americas, 2nd Floor
New York, New York 10105
Telephone: (212) 201-2845
psafirstein@safirsteinmetcalf.com

Counsel for Plaintiffs

QUINN EMANUEL URQUHART & SULLIVAN, LLP

By: /s/ Daniel L. Brockett
Daniel L. Brockett
Sascha N. Rand
Steig D. Olson
Deborah K. Brown
Daniel P. Mach
David LeRay
51 Madison Avenue, 22nd Floor
New York, New York 10010
Telephone: (212) 849-7000
danbrockett@quinnemanuel.com
sascharand@quinnemnuel.com
steigolson@quinnemanuel.com
deborahbrown@quinnemanuel.com
danielmach@quinnemanuel.com
davidleray@quinnemanuel.com

Jeremy D. Andersen (*pro hac vice*)
865 South Figueroa Street, 10th Floor
Los Angeles, California 90017
Telephone: (213) 443-3000
jeremyandersen@quinnemanuel.com

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM, *et al.*, Plaintiffs, v. BANK OF AMERICA CORPORATION, *et al.*, Defendants.	Case No. 17-cv-6221 (KPF) Hon. Katherine Polk Failla

MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFFS' MOTION FOR PRELIMINARY APPROVAL OF THE SETTLEMENT AGREEMENT WITH CREDIT SUISSE

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Page(s)

Cases

Statutes

Other Authorities

PRELIMINARY STATEMENT

Plaintiffs respectfully submit this memorandum in support of their motion for preliminary approval of the first "icebreaker" settlement with a Defendant in this class action concerning violations of the antitrust laws in connection with the stock loan market. Specifically, Plaintiffs, on behalf of themselves and the proposed Settlement Class, have reached agreement with the Defendant Credit Suisse entities ("Credit Suisse").[1] This first settlement agreement includes both an $81 million cash payment and an obligation on the part of Credit Suisse to provide cooperation to Plaintiffs in litigating and ultimately trying their case against the remaining Defendants. *See* Decl. of Daniel L. Brockett ("Brockett Decl."), Ex. 1 ("Settlement Agreement" or "SA"). In return, Plaintiffs, on behalf of the proposed Settlement Class, release Credit Suisse from the claims arising from the factual predicate of this action. Plaintiffs also agree to reduce the amount of any aggregate monetary final judgment against the remaining Defendants by 13.5%.

This icebreaker settlement represents an excellent recovery for the class and an important strategic milestone. The settlement is the product of extensive arm's-length negotiations between experienced counsel. Based on our experience and knowledge of the claims and defenses at issue in this action, Co-Lead Counsel believe that the settlement is in the best interests of the Settlement Class, and the Named Plaintiffs fully support the Settlement Agreement. Plaintiffs thus respectfully submit that the settlement is fair, reasonable, and adequate, that it meets the requirements for certification of a settlement class, and that the Court

[1] The Defendant Credit Suisse entities are Credit Suisse Group AG, Credit Suisse AG, Credit Suisse Securities (USA) LLC, Credit Suisse First Boston Next Fund, Inc., and Credit Suisse Prime Securities Services (USA) LLC.

should preliminarily approve the settlement. Plaintiffs seek entry of the proposed Preliminary Approval Order submitted herewith. *See* SA, Ex. A ("Preliminary Approval Order").

REQUESTED TWO-STEP PRELIMINARY APPROVAL PROCEDURE

Plaintiffs propose to file at a future date a separate motion for preliminary approval of the plans for providing notice and for allocating the settlement funds ("Notice Motion"). The Notice Motion would not be filed until Plaintiffs develop a proposed Plan of Distribution assisted by Credit Suisse's co-operation as set forth in the Settlement Agreement. Only Court approval of the relief set out in the future Notice Motion would actually trigger notice in an approved form to the Settlement Class.

However, the timeline for Credit Suisse's obligations to deposit the Settlement Amount, to assist in the creation of a notice plan, and to provide cooperation (including data that may be used in an allocation plan), all do not begin until preliminary approval of the settlement terms at issue in the current motion. *See, e.g.*, SA ¶¶ 3.1, 7.2, 10.5. Having this motion go first makes sense in large and complex cases like this one. Notice and allocation plans require substantial efforts from plaintiffs and settling defendants alike. It would be potentially wasteful to undertake such efforts without some indication that the core settlement terms are likely to move forward. Deferring notice can also potentially reduce the number of notices sent to the class members in the event further settlements are reached or the action reaches a merits conclusion. Accordingly, Plaintiffs request the Court approve a two-step preliminary approval process. Similar two-step preliminary approval processes have been adopted in several recent class action settlements.[2] Plaintiffs' motion for final approval would follow in due course.

[2] *See, e.g.*, Order Preliminarily Approving the Deutsche Bank Settlement Agreement, *In re: Commodity Exch. Inc. Gold Futures & Options Trading Litig.*, No. 14-md-2548 (VEC) (S.D.N.Y. Dec. 9, 2016), ECF No. 187; Order Preliminarily Approving Class Action Settlement,

PROCEDURAL BACKGROUND

Following a proprietary and independent investigation, Cohen Milstein Sellers & Toll PLLC and Quinn Emanuel Urquhart & Sullivan, LLP ("Co-Lead Counsel") filed an initial complaint in this class action litigation in August 2017. Class Action Compl. ("Compl."), ECF No. 1. No other complaints were filed by other counsel. In November 2017, Co-Lead Counsel filed an amended complaint alleging a conspiracy among major dealers in stock loans to jointly boycott efficient, all-to-all trading platforms and price-transparency providers. Am. Class Action Compl., ECF No. 73. In September 2018, the Court denied Defendants' motions to dismiss in their entirety. Op. & Order, ECF No. 123. Since then, the parties have engaged in extensive discovery, reviewing millions of documents, analyzing terabytes of data, and completing more than 100 depositions of fact witnesses, Plaintiffs, third parties, and experts in multiple countries. The parties also each have submitted multiple briefs on Plaintiffs' extensive class certification motion over the course of nearly a year, concluding in January 2022. Mem. of Law in Supp. of Class Pls.' Mot. for Class Certification, ECF No. 415 ("Opening Cert. Br."); Defs.' Mem. of Law in Opp'n to Pls.' Mot. for Class Certification, ECF No. 431 ("Cert. Opp'n"); Reply Mem. of Law in Further Supp. of Class Pls.' Mot. for Class Certification, ECF No. 469 ("Reply Cert. Br."); Defs.' Sur-Reply in Opp'n to Pls.' Mot. for Class Certification, ECF No. 495 ("Cert. Sur-Reply"); Sur-Sur-Reply Mem. of Law in Further Supp. of Class Pls.' Mot. for Class Certification, ECF No. 513. Plaintiffs now seek preliminary approval of the Settlement Agreement, entered into in January 2022 after extensive negotiations.

In re London Silver Fixing, Ltd. Antitrust Litig., No. 14-md-2573-VE (S.D.N.Y. Nov. 23, 2016), ECF No. 166; Order Preliminarily Approving Settlement Agreements, *Alaska Elec. Pension Fund v. Bank of Am. Corp.*, No. 14-cv-7126 (JMF) (S.D.N.Y. May 11, 2016), ECF No. 228; Order Preliminarily Approving Settlements, *In re Foreign Exch. Benchmark Rates Antitrust Litig.*, No. 13-cv-7789-LGS (S.D.N.Y. Dec. 15, 2015), ECF No. 536.

SUMMARY OF THE SETTLEMENT

The primary terms of the settlement are as follows:

Settlement Amount. The monetary component of the settlement is $81 million (the "Settlement Amount"). SA ¶ 1.39. Following preliminary approval, the Settlement Amount will be paid into an Escrow Account and invested exclusively in instruments backed by the full faith and credit of the United States Government or fully insured by the United States Government or an agency thereof. *See* SA ¶¶ 3.1, 3.5. The Settlement Amount, less any applicable taxes, attorneys' fees, and service awards and expenses, will be distributed to Authorized Claimants in accordance with an allocation plan to be approved by the Court and included in the Class Notice prior to Final Approval. *See* SA § 7. No portion of the Settlement Amount may be returned to Credit Suisse unless the Agreement is terminated due to the Court's disapproval or a materially significant portion of Settlement Class members opt out of the settlement. *See* SA ¶¶ 7.11, 9.4-9.6.

Settlement Class Definition. The Credit Suisse Settlement Agreement is made on behalf of a proposed Settlement Class defined as:

> [A]ll Persons or entities who, directly or through an agent, entered into Stock Loan Transactions with the Prime Broker Defendants, direct or indirect parents, subsidiaries, or divisions of the Prime Broker Defendants, or the Released Credit Suisse Parties, in the United States from January 7, 2009 through the Execution Date (the "Settlement Class Period"), inclusive.[3]

SA ¶ 1.40. A Stock Loan Transaction, in turn, is defined as:

---

[3] Excluded from the Settlement Class are Defendants and their employees, affiliates, parents, subsidiaries, and co-conspirators, should any exist, whether or not named in the Amended Complaint, entities which previously requested exclusion from any Class in this Action, the United States Government, and all of the Released Credit Suisse Parties, provided, however, that Investment Vehicles shall not be excluded from the definition of the Settlement Class. SA ¶ 1.40.

> [A]ny transaction, including any transaction facilitated by a prime broker or agent lender, in which an owner of a stock temporarily lends the stock in exchange for collateral or in which a borrower of a stock provides collateral to temporarily borrow a security, and in which the stock is ultimately returned to the lender at a later date, at which time the lender returns the collateral to the borrower.[4]

SA ¶ 1.45. The proposed Settlement Class is broader than the class proposed for purposes of taking the case through trial, instead closely tracking the Complaint. *See* Compl. ¶ 208; Opening Cert. Br. at 7-8. Credit Suisse, seeking full peace, requested a release that tracks the claims *brought*, including with respect to the longer class period and types of transactions. The law recognizes the propriety of releasing claims going beyond those that are actually litigated through trial. *See, e.g.*, *Wal-Mart Stores, Inc. v. Visa U.S.A., Inc.*, 396 F.3d 96, 106-107 (2d Cir. 2005).

Release of Claims. With Court approval and after the judgment is final, the Action, all claims asserted in the Action, and all Released Claims belonging to Plaintiffs will be dismissed with prejudice as against Credit Suisse,[5] and Plaintiffs and each of the Settlement Class members (and anyone claiming through or on behalf of them) will be permanently barred and enjoined from asserting any of the Released Claims against the Released Credit Suisse Parties. *See* SA § 6, ¶ 11.2. "Released Class Claims" is defined to include:

> [A]ny and all manner of claims . . . against the Released Credit Suisse Parties, arising from or related in any way to the conduct alleged or that could have been alleged in this Action that also arise from or relate to the factual predicate of the Action, to the fullest extent allowed by law, from the beginning of time through the Execution Date.

[4] Excluded from the definition of "Stock Loan Transactions" are non-equity securities lending and stock repurchase (repo) transactions. SA ¶ 1.45.

[5] Credit Suisse has denied and continues to deny each and all of the claims and allegations of wrongdoing made by Plaintiffs in this action and all charges of wrongdoing or liability arising out of any of the conduct, statements, acts, or omissions alleged, or that could have been alleged, in this action. *See* SA § II.

SA ¶ 1.32. *See, e.g.*, *Wal-Mart Stores*, 396 F.3d at 107 ("The law is well established in this Circuit and others that class action releases may include claims not presented and even those which could not have been presented as long as the released conduct arises out of the 'identical factual predicate' as the settled conduct.").[6]

The settlement also includes a release of claims by the Releasing Credit Suisse Parties against Released Class Members for claims related to the "institution, prosecution, or settlement" of the Released Class Claims. SA ¶ 1.35; *see also id.* ¶ 6.3. The releases do not cover claims relating to enforcement of the settlement.

Cooperation. Credit Suisse agrees to provide cooperation to Plaintiffs in their prosecution of this action against the other Defendants, including providing transactional data and making available for trial testimony up to four witnesses. SA § 10.

Reduction of Judgment. Plaintiffs have agreed that the maximum amount they will enforce from any judgment against the non-settling Defendants in this Action will be reduced by 13.5% of the jury's award. SA ¶ 11.21. Plaintiffs agreed to the term because they believe the total benefits of the settlement outweigh the total rights that are released, even accounting for this term.

The Settlement Agreement expressly reserves Plaintiffs' their right to challenge the propriety of any judgment sharing agreement or other agreement requiring such terms, which we will likely do without limitation should it become an impediment to negotiations with other Defendants. SA ¶ 11.22. Plaintiffs agree, however, that any such challenge will not impact the enforceability of the term vis-à-vis this Agreement. *Id.*

---

[6] Internal citations, quotation marks and alterations are omitted throughout except where relevant.

Termination Provisions. Termination is permitted within thirty days of any of the following events: (i) the Court or any appellate court enters a final order declining to enter the Preliminary Approval Order in any material respect; (ii) the Court or any appellate court enters an order refusing to approve this Settlement Agreement or any material part of it; (iii) the Court enters an order declining to enter the Judgment and Order of Dismissal in any material respect; or (iv) the Judgment and Order of Dismissal is modified or reversed by a court of appeal or any higher court in any material respect. *See* SA ¶ 9.2. If opt outs are so extensive that they materially impair the value of the settlement to Credit Suisse, *and* a mediator determines, in their sole discretion, that the Settlement Fund cannot be reduced to preserve the essential benefits of the settlement, Credit Suisse may seek to terminate the settlement. SA ¶¶ 9.4-9.7.

Attorneys' Fees, Expenses, and Service Awards. The Settlement Agreement reserves Plaintiffs' right to request interim attorneys' fees, reimbursement of expenses, and/or class representative service awards. *See* SA § 8. The Settlement Class would be given notice of any such application or applications, which also would be subject to Court approval.

ARGUMENT

I. THE SETTLEMENT MEETS THE STANDARD FOR PRELIMINARY APPROVAL

Rule 23(e) requires court approval of a proposed class action settlement upon finding that the proposal "is fair, reasonable, and adequate." Fed. R. Civ. P. 23(e)(2). The preliminary approval process is governed by a "likelihood standard," requiring the Court to assess whether the parties have shown that "the court will *likely* be able to grant final approval and certify the class." *In re Payment Card Interchange Fee & Merch. Disc. Antitrust Litig.*, 330 F.R.D. 11, 28 n.21 (E.D.N.Y. 2019). In conducting a preliminary approval inquiry, a court considers both the "negotiating process leading up to the settlement, i.e., procedural fairness, as well as the settlement's substantive terms, i.e., substantive fairness." *In re Platinum & Palladium Commodities Litig.*, 2014 WL 3500655, at *11 (S.D.N.Y. July 15, 2014).

Under Rule 23(e)(2), in weighing preliminary approval, the Court must consider whether: "(A) the class representatives and class counsel have adequately represented the class; (B) the proposal was negotiated at arm's length; (C) the relief provided for the class is adequate . . . ; and (D) the proposal treats class members equitably relative to each other." Fed. R. Civ. P. 23(e)(2). "Paragraphs (A) and (B) constitute the 'procedural' analysis factors, and examine 'the conduct of the litigation and of the negotiations leading up to the proposed settlement.' Paragraphs (C) and (D) constitute the 'substantive' analysis factors, examine '[t]he relief that the settlement is expected to provide to class members.'" *Payment Card*, 330 F.R.D. at 29 (quoting Fed. R. Civ. P. 23 advisory committee's note to 2018 amendment). These "factors . . . add to, rather than displace," the *Grinnell* factors (described and applied in I.B, below) traditionally considered in the Second Circuit during the preliminary approval process. *Id.* In undertaking this review, "a full fairness analysis is unnecessary at this stage; preliminary approval is appropriate where a proposed settlement is merely within the range of possible approval." *Reade-Alvarez v. Eltman, Eltman, & Cooper, P.C.*, 237 F.R.D. 26, 34 (E.D.N.Y. 2006).

As demonstrated below, the Credit Suisse Settlement Agreement warrants preliminary approval because it is procedurally and substantively fair.

A. <u>The Settlement Is Procedurally Fair</u>

"To determine procedural fairness, courts examine the negotiating process leading to the settlement." *Morris v. Affinity Health Plan, Inc.*, 859 F. Supp. 2d 611, 618 (S.D.N.Y. 2012). 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." *In re Austrian & German Bank Holocaust Litig.*, 80 F. Supp. 2d 164, 173-74 (S.D.N.Y. 2000), *aff'd sub nom. D'Amato v. Deutsche Bank*, 236 F.3d 78 (2d Cir. 2001).

The Credit Suisse Settlement Agreement is the product of arm's-length settlement negotiations among experienced counsel. Over a series of communications, the parties' counsel exchanged views on the strengths and weaknesses of Plaintiffs' case and Credit Suisse's defenses, and engaged in significant back-and-forth on the Settlement Amount, the contours of Credit Suisse's cooperation with Plaintiffs' continuing prosecution of claims against the non-settling Defendants in this action, and other terms of the Settlement Agreement. Moreover, the Named Plaintiffs, all sophisticated institutional investors, approved the settlement.

Co-Lead Counsel believe Plaintiffs' claims have substantial merit but acknowledge the expense, length, and uncertainty of continued litigation. In recommending that the Court approve the settlement, Co-Lead Counsel considered the uncertain outcome and risks of further litigation and believe the settlement confers significant benefits on the Settlement Class in light of the circumstances here. Based on these considerations, there is "a strong initial presumption that the compromise is fair and reasonable." *In re Michael Milken & Assocs. Sec. Litig.*, 150 F.R.D. 57, 66 (S.D.N.Y. 1993); *see also Henry v. Little Mint, Inc.*, 2014 WL 2199427, at *6 (S.D.N.Y. May 23, 2014) ("If the settlement was achieved through experienced counsels' arm's-length negotiations, absent fraud or collusion, courts should be hesitant to substitute their judgment for that of the parties who negotiated the settlement.").

B. <u>The Settlement Is Substantively Fair</u>

In granting preliminary approval, courts must make a preliminary determination that the substantive terms of the proposed settlement are "fair, reasonable, and adequate." Fed. R. Civ. P. 23(e)(2). Courts in this Circuit have traditionally analyzed the "*Grinnell* factors" in assessing whether a proposed settlement is fair, reasonable, and adequate. *See City of Detroit v. Grinnell*

Corp., 495 F.2d 448, 463 (2d Cir. 1974) (listing factors), *abrogated in part on other grounds, Goldberger v. Integrated Res., Inc.*, 209 F.3d 43 (2d Cir. 2000). As noted above, the *Grinnell* factors are complemented by the 2018 amendments to Rule 23(e); they were not displaced by those amendments. *See Payment Card*, 330 F.R.D. at 29. Each factor supports preliminary approval.

1. The complexity, expense, and likely duration of the litigation

"Antitrust class actions are notoriously complex, protracted, and bitterly fought." *Meredith Corp. v. SESAC, LLC*, 87 F. Supp. 3d 650, 669 (S.D.N.Y. 2015); *see also Virgin Atl. Airways Ltd. v. British Airways PLC*, 257 F.3d 256, 263 (2d Cir. 2001) (noting the "factual complexities of antitrust cases"). This case is no different. From the initial motions to dismiss through preliminary discovery, depositions, and class certification briefing, sophisticated counsel intensely contested each stage of the case. Plaintiffs, and presumably Defendants as well, have spent many millions of dollars on expert fees and other expenses, and dedicated tens of millions of dollars in attorney time to pursuing the litigation. Further stages of the litigation, including summary judgment, trial, and potentially appeals, will surely be just as extensively and expensively contested. Moreover, given the complexity of the case, it is likely that full adjudication of the action would take years at a minimum, not including appeals.

Plaintiffs are confident of their case and the likelihood of prevailing at trial but also mindful that all litigation presents risks no matter how strong the case, especially when opposing counsel are as sophisticated and well-resourced as they are here. In short, "[t]here can be no doubt that this class action would be enormously expensive to continue, extraordinarily complex to try, and ultimately uncertain of result." *In re Nasdaq Mkt.-Makers Antitrust Litig.* ("*Nasdaq III*"), 187 F.R.D. 465, 477 (S.D.N.Y. 1998). This factor weighs in favor of preliminary approval.

2. The reaction of the Class to the settlement

Because notice has yet to be provided to potential members of the Settlement Class, courts generally do not consider this *Grinnell* factor at the preliminary approval stage. *See Reade-Alvarez*, 237 F.R.D. at 34 ("Clearly, some of these [*Grinnell*] factors, particularly the reaction of the class to the settlement, are impossible to weigh prior to notice and a hearing."). In any event, all of the Named Plaintiffs approve of this settlement, and should any objections from Settlement Class members be received prior to the Fairness Hearing, Co-Lead Counsel will address those concerns in the final approval papers.

3. The stage of the proceedings

The "stage of the proceedings" factor ultimately concerns "whether the plaintiffs have obtained a sufficient understanding of the case to gauge the strengths and weaknesses of their claims and the adequacy of the settlement." *In re AOL Time Warner, Inc. Sec. & "ERISA" Litig.*, 2006 WL 903236, at *10 (S.D.N.Y. Apr. 6, 2006). Here, the parties have extensively litigated and assessed the strengths and weaknesses of Plaintiffs' case. They have the benefit of millions of documents, more than 100 fact and expert depositions, and full ventilation of class certification briefing, including multiple rounds of expert reports and a methodology for assessing damages and Plaintiffs' aggregate damages estimate. Due to this work, the depth of Plaintiffs' and Co-Lead Counsels' knowledge of the strengths and potential weaknesses of their claims is more than adequate to support the settlement.

4. The risks of establishing liability and damages

In assessing this factor, "the Court should balance the benefits afforded the Class, including the *immediacy* and *certainty* of a recovery, against the continuing risks of litigation." *Flores v. Mamma Lombardi's of Holbrook, Inc.*, 104 F. Supp. 3d 290, 303 (E.D.N.Y. 2015). As noted above, while Plaintiffs are confident of ultimately prevailing in this litigation, they recognize that nothing in litigation is ever certain and that they will be opposed by sophisticated and well-resourced defense counsel. Because six groups of Defendants remain in the litigation, Plaintiffs cannot discuss in detail potential risks in establishing liability, damages, and maintaining a class action through trial. But some general possibilities are already evident.

Defendants have throughout made clear their intent to challenge, among other things: whether any conspiracy existed at all; the viability of the boycotted all-to-all trading platforms that would have reduced spreads in the but-for world; and the existence and extent of damages. For instance, as noted above, Defendants filed motions to dismiss, arguing primarily that the Amended Complaint's allegations: (i) were implausible; (ii) in large part, described conduct that is not unlawful; (iii) failed to adequately allege antitrust standing; (iv) were untimely; and (v) failed to adequately plead an unjust enrichment claim. *See* Op. & Order at 2, ECF No. 123. Although, in Co-Lead Counsels' view, the Court was correct to reject those arguments at the motion to dismiss stage, and although discovery has revealed a wealth of evidence substantiating Plaintiffs' claims, absent this settlement, Credit Suisse was prepared to vigorously contest liability and damages on these and other grounds at summary judgment, trial, and on appeal.

Even if liability was established at trial, Plaintiffs would face the complexities inherent in proving damages to the jury. There is no doubt that at trial the issue inevitably would involve a "battle of the experts." *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). Thus, there is a risk that a jury might accept one or more of Defendants' damages arguments and award nothing at all or award less than the $81,000,000 that, if approved, would be available to the Settlement Class under this settlement. "Indeed, the 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." *Nasdaq III*, 187 F.R.D. at 476.

Put another way, there is no doubt that Credit Suisse, represented by experienced counsel, would present sophisticated arguments to the Court at each step of the litigation and argue against liability for *any* damages. When weighed against the risks of continued litigation, the significant, immediate, and certain benefits to the Settlement Class weigh in favor of preliminary approval.

5. The risks of maintaining a class action through trial

Similarly, although Plaintiffs have presented extensive evidence which is more than sufficient to establish that the case should be certified as a class action, the case is complex, and the Court has not yet ruled on Plaintiffs' motion for certification. While Plaintiffs believe they have amply demonstrated that Defendants' arguments in opposition to certification are incorrect, there is no doubt that Defendants' papers represent a vigorous effort.

Certification can, of course, be reviewed and modified at any time. And the losing party on class certification may petition the Circuit Court for permission to appeal. Thus, there is some risk that the action might not be maintained as a class action through trial. *See Frank v. Eastman Kodak Co.*, 228 F.R.D. 174, 186 (W.D.N.Y. 2005) (noting that "[w]hile plaintiffs might indeed prevail [on a motion for class certification], the risk that the case might be not certified is not illusory"). This risk also weighs in favor of preliminary approval.

6. The ability of Credit Suisse to withstand a greater judgment

"[I]n any class action against a large corporation, the defendant entity is likely to be able to withstand a more substantial judgment, and, against the weight of the remaining factors, this fact alone does not undermine the reasonableness of the instant settlement." *Weber v. Gov't Emps. Ins. Co.*, 262 F.R.D. 431, 447 (D.N.J. 2009). Here, the financial obligations the settlement imposes on Credit Suisse are substantial. Moreover, "the benefit of obtaining the cooperation of the Settling Defendants tends to offset the fact that they would be able to withstand a larger judgment." *In re Pressure Sensitive Labelstock Antitrust Litig.*, 584 F. Supp. 2d 697, 702 (M.D. Pa. 2008). This factor weighs in favor of preliminary approval.

7. *The reasonableness of the settlement in light of the best possible recovery and attendant litigation risks*

The range-of-reasonableness factor weighs the relief provided in the settlement against the strength of the plaintiff's case, including the likelihood of obtaining a recovery at trial. This factor "recognizes the uncertainties of law and fact in any particular case and the concomitant risks and costs necessarily inherent in taking any litigation to completion." *Newman v. Stein*, 464 F.2d 689, 693 (2d Cir. 1972). In applying this factor "the Settlement must be judged 'not 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.'" *Shapiro v. JPMorgan Chase & Co.*, 2014 WL 1224666, at *11 (S.D.N.Y. Mar. 24, 2014) (quoting *In re "Agent Orange" Prod. Liab. Litig.*, 597 F. Supp. 740, 762 (E.D.N.Y. 1984), *aff'd* 818 F.2d 145 (2d Cir. 1987)).

Plaintiffs' experts Dr. Paul Asquith and Dr. Parag Pathak estimated recoverable damages to be in the range of $3.47 billion to $7.5 billion. Reply Expert Report of Paul Asquith & Parag Pathak Ex. C.15, ECF No. 470-2. Credit Suisse's proportional share of 13.5% of such a range would be $469 million to $1 billion, meaning the settlement is for approximately 8% to 17% of Credit Suisse's proportional share of Plaintiffs' estimated trial damages.

Of course, such a recovery against Credit Suisse would not be guaranteed given the risks of proving liability and damages. *See supra* § I.A.4. Defendants' attacks on Drs. Asquith and

Pathak's damages model in class certification papers demonstrate how vigorously Defendants can be expected to contest their ultimate damages estimates. *See generally* Cert. Opp'n; Cert. Sur-Reply. Moreover, Defendants attacked portions of Plaintiffs' class and the class period; were the Court to refuse to certify any part of the class, or reduce the class period, the recoverable damages would be substantially diminished. *See supra* § I.A.5.

Given these risks and risks in the litigation generally, an 8% to 17% recovery on what amounts to a best-case range of estimated trial damages is an excellent result for the Settlement Class. It is an especially good recovery given it is the first settlement so carries the additional value of "potentially helping to spur other parties to settlement." *In re GSE Bonds Antitrust Litig.*, 414 F. Supp. 3d 686, 697 (S.D.N.Y. 2019); *see also In re Domestic Airline Travel Antitrust Litig.*, 378 F. Supp. 3d 10, 18-19 (D.D.C. 2019) (describing "discount" given to icebreakers). Which is to say, Plaintiffs still hope to recover from other Defendants. But even if Plaintiffs are unable to do so, as recognized by the Second Circuit, because of the riskiness of litigation, "[i]n fact there is no reason . . . why a satisfactory settlement could not amount to a hundredth or even a thousandth part of a single percent of the potential recovery." *Grinnell*, 495 F.2d at 455 n.2. Indeed, any failure to recover more from additional Defendants would only confirm, in hindsight, the risks of this litigation and thus the merit to this early settlement. Credit Suisse's cooperation with trial witnesses also increases the value of the settlement. *See GSE Bonds*, 414 F. Supp. 3d at 697.

Considering the risks and costs of continued litigation, the Credit Suisse Settlement Agreement provides excellent results for the Settlement Class. *See In re PaineWebber Ltd. P'ships Litig.*, 171 F.R.D. 104, 125 (S.D.N.Y. 1997) ("great weight is accorded to the recommendations of counsel, who are most closely acquainted with the facts of the underlying litigation.")[7]

C. **The Rule 23(e)(2) Factors Support Preliminary Approval of the Settlement**

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

Adequacy requires determining whether "1) plaintiff's interests are antagonistic to the interest of other members of the class and 2) plaintiff's attorneys are qualified, experienced and able to conduct the litigation." *Baffa v. Donaldson, Lufkin & Jenrette Sec. Corp.*, 222 F.3d 52, 60 (2d Cir. 2000).

As to Plaintiffs' adequacy, Plaintiffs are entities that borrowed and/or loaned securities as defined in the Settlement Class definition. Brockett Decl. ¶ 6; SA ¶¶ 1.40, 1.45. Where, as here, Plaintiffs and members of the Settlement Class share "an interest in proving the existence of Defendants' conspiracy" and "in maximizing the aggregate amount of classwide damages," the adequacy requirement is satisfied. *In re NASDAQ Mkt.-Makers Antitrust Litig.*, 169 F.R.D. 493, 513 (S.D.N.Y. 1996). Plaintiffs have demonstrated their adequacy to serve by actively participating in the litigation and supervising Co-Lead Counsel. For example, they have produced thousands of documents; responded to interrogatories and requests for admission; prepared and sat for 30(b)(6) depositions; reviewed pleadings and stayed apprised of case developments; and guided Co-Lead Counsel throughout the litigation. Brockett Decl. ¶ 6; *see also* Opening Cert. Br. at 14-16; Reply Cert. Br. at 29-33.

As for Co-Lead Counsel, for more than four years, we have worked vigorously to investigate and prosecute this case—dedicating tens of thousands of hours and tens of millions of

---

[7] *See also AOL Time Warner*, 2006 WL 903236, at *13 (where settlement fund is in escrow earning interest, "the benefit of the Settlement will . . . be realized far earlier than a hypothetical post-trial recovery").

dollars to its success. We have significant experience successfully leading antitrust class actions in this District and nationwide, recovering billions for plaintiffs and receiving numerous accolades, from courts and in the form of various awards recognizing the quality of our work. Brockett Decl. Exs. 2, 3. Co-Lead Counsel have adequately represented the Settlement Class's interests and should be appointed as Settlement Class Counsel. *See* Rule 23(g); *Rosi v. Aclaris Therapeutics, Inc.*, 2021 WL 5847420, at *4 (S.D.N.Y. Dec. 9, 2021) (finding class counsel adequate for purposes of Rule 23(e)(2)(A) where counsel participated in discovery and motion practice and also prepared documents in connection with settlement).

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

As discussed above, the Settlement Agreement is the product of arm's-length negotiations. *See supra* Section I.A.

3. Rule 23(e)(2)(C)—the monetary relief is adequate

Rule 23(e)(2)(C) asks the Court to consider whether the relief provided for the proposed Settlement Class is adequate, taking into account four 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 attorney's 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)(i-iv). Each factor supports preliminary approval.

The costs, risks, and delay of trial and appeal. Plaintiffs discussed this factor above in Sections I.B.1, I.B.3, I.B.4, and I.B.5. The $81 million monetary payment (augmented by Credit Suisse's required cooperation) represents a strong recovery, taking into account the potential costs, risk, and delay associated with class certification, trial, and appeal.

Effectiveness of the proposed method of distributing relief to the Settlement Class. This factor requires the Court to consider "the effectiveness of any proposed method of distributing relief to the class, including the method of processing class-member claims." Fed. R. Civ. P. 23(e)(2)(C)(ii). "A claims processing method should deter or defeat unjustified claims, but the court should be alert to whether the claims process is unduly demanding." *GSE Bonds*, 414 F. Supp. 3d at 694.

As discussed above, Plaintiffs are not at this time asking the Court to review any proposed notice or allocation plans. Plaintiffs will move separately for preliminary approval of those plans before formal notice or any other steps are taken. Even if this factor were nonetheless found to still be relevant to the limited motion currently before the Court, Plaintiffs would need to show only a *likelihood* that the Court will be able to grant approval. *Payment Card*, 330 F.R.D. at 28 n.21. The basis for such a finding can be found in the Settlement Agreement, which requires Credit Suisse's assistance in the gathering of data and class member information (see SA ¶¶ 7.2, 10.5(a)), and outlines expectations for a standard process for receiving claim forms attested to under a penalty of perjury and subject to documentary audits (*see id.* ¶ 7.6), to be overseen by an industry-leading Settlement Administrator appointed by the Court (*see id.* ¶ 7.3). This process, to be detailed further when we move separately for preliminary approval of the notice and allocation plans, will be adequate to deter or defeat unjustified claims.

The terms of any proposed award of attorneys' fees. Although the Settlement Agreement reserves Co-Lead Counsel's right to seek attorneys' fees, no set amount of fees or expenses is specified in the Settlement Agreement itself. Co-Lead Counsel will seek fees and expenses at an appropriate time, and Rule 23(h) requires the Court to vet the reasonableness of

Co-Lead Counsel's eventual request. The Settlement Agreement contains no provisions that would permit Co-Lead Counsel to seek or receive unreasonable fees.

Any agreement required to be identified under Rule 23(e)(3). This factor requires courts to consider "'any agreement required to be identified by Rule 23(e)(3),' that is, 'any agreement made in connection with the proposal.'" *GSE Bonds*, 414 F. Supp. 3d at 696 (quoting Fed. R. Civ. P. 23(e)(2)(C)(iv) and 23(e)(3)). Plaintiffs are not aware of the existence or terms of any agreement entered into between Plaintiffs and Credit Suisse bearing on the proposal other than the Settlement Agreement itself. Though it is not clear they fall into Rule 23(e)(3), including because they already appear on the face of the Agreement itself, Plaintiffs in an abundance of caution note that (a) Credit Suisse has certain rights in the event that a material number of members of the Settlement Class opt out, *see* SA § 9, and (b) Plaintiffs have agreed to reduce any judgment entered into against the remaining Defendants in this Action, *see* SA ¶ 11.21.

4. Rule 23(e)(2)(D)—the settlement treats Class members equitably relative to each other

This Rule 23(e)(2) factor "could include whether the apportionment of relief among class members takes appropriate account of differences among their claims, and whether the scope of the release may affect class members in different ways that bear on the apportionment of relief." Fed. R. Civ. P. 23(e)(2)(C-D) advisory committee's note to 2018 amendment. The Settlement Agreement indisputably treats class-members "equitably." The Settlement Agreement's release treats all members of the Settlement Class equitably relative to one another: Subject to Court approval, all members of the Settlement Class will be giving Credit Suisse an identical release. And importantly, Credit Suisse's obligations are fixed—at $81 million. The factor is thus met, as the settlement itself treats class members equitably.

To be clear, however, Plaintiffs will at a later date file a separate motion for preliminary approval for a plan of allocation that will provide further details as to how the net settlement fund will be distributed. But the Settlement Agreement makes clear that even the eventual allocation plan will remain distinct from the terms of the Settlement Agreement itself. SA ¶ 1.27. Where the settlement terms are themselves set, as here, the Second Circuit has even approved of entering *final* approval of settlements without an allocation plan. *See In re "Agent Orange" Prod. Liab. Litig. MDL No. 381*, 818 F.2d at 170 ("The prime function of the district court in holding a hearing on the fairness of the settlement is to determine that the amount paid is commensurate with the value of the case. This can be done before a distribution scheme has been adopted so long as the distribution scheme does not affect the obligations of the defendants under the settlement agreement.").[8] Here, at the preliminary approval stage, the question is only whether this Court will *likely* be able to approve the Settlement Agreement, making it all the more irrelevant that an allocation plan has not yet been proposed.

II. THE SETTLEMENT CLASS SHOULD BE CERTIFIED

A court may certify a settlement class where the proposed settlement class satisfies the requirements for Rule 23(a) as well as one of the three subsections of Rule 23(b). *See In re Am. Int'l Grp., Inc. Sec. Litig.*, 689 F.3d 229, 238 (2d Cir. 2012). The proposed Settlement Class meets these requirements.

---

[8] *See also Nasdaq III*, 187 F.R.D. at 480; 2 Joseph M. McLaughlin, *McLaughlin on Class Actions* § 6:23 (18th ed. 2021) ("Because court approval of a settlement as fair, reasonable and adequate is conceptually distinct from the approval of a proposed plan of allocation, however, courts frequently approve them separately.").

A. The Requirements of Rule 23(a) Are Satisfied

1. The Settlement Class satisfies the numerosity requirement

In cases like this one involving widely traded financial instruments, the Rule 23(a)(1) numerosity requirement is readily satisfied. *See Wallace v. IntraLinks*, 302 F.R.D. 310, 315 (S.D.N.Y. 2014). Co-Lead Counsel estimate that there are thousands of members of the proposed Settlement Class. *See* Opening Cert. Br. at 12.

2. There are questions of law and fact common to all Settlement Class members

Rule 23(a)(2)'s commonality requirement is satisfied if at least one question exists that is "capable of classwide resolution—which means that determination of its truth or falsity will resolve an issue that is central to the validity of each one of the claims in one stroke." *Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 350 (2011). Courts routinely hold commonality exists in antitrust claims where "allegations of the existence of . . . conspiracy are susceptible to common proof." *Cordes & Co. Fin. Servs., Inc. v. A.G. Edwards & Sons, Inc.*, 502 F.3d 91, 105 (2d Cir. 2007). This case requires resolution of common questions relating to the existence, scope, and effectiveness of the alleged conspiracy, as well as common questions related to whether Plaintiffs and Settlement Class members suffered injury in fact and the appropriate measure of class-wide damages. *See* Opening Cert. Brief at 12. As such, commonality exists under Rule 23(a)(2).

3. Plaintiffs' claims are typical of those of the Settlement Class

Rule 23(a)(3) requires that, "the claims or defenses of the representative parties are typical of the claims or defenses of the class." Fed. R. Civ. P. 23(a)(3). This requirement is satisfied when, "each [class] member's claim arises from the same course of events, and each class member makes similar legal arguments to prove the defendant's liability." *In re Elec.*

Books Antitrust Litig., 2014 WL 1282293, at *12 (S.D.N.Y. Mar. 28, 2014) (quoting *Brown v. Kelly*, 609 F.3d 467, 475 (2d Cir. 2010)). Typicality is "not highly demanding," *Dial Corp. v. News Corp.*, 314 F.R.D. 108, 113 (S.D.N.Y. 2015), and is easily satisfied in antitrust cases alleging a conspiracy in violation of Section 1 of the Sherman Act which aim to prove "a conspiracy, its effectuation, and damages therefrom," *In re Currency Conversion Fee Antitrust Litig.*, 264 F.R.D. 100, 111 (S.D.N.Y. 2010) (collecting cases). Plaintiffs allege Defendants conspired to prevent the adoption of exchange trading in the stock loan market, ensuring that the market remained opaque and causing Plaintiffs and members of the Settlement Class to pay more to borrow, or receive less to loan, their stocks. Accordingly, the typicality requirement is satisfied. *See* Opening Cert. Br. at 12-14.

4. The Settlement Class is fairly and adequately represented

As discussed in Section I.C.1, *supra*, Plaintiffs and Co-Lead Counsel have fairly and adequately represented the Settlement Class as required by Rule 23(a)(4).

B. The Requirements of Rule 23(b)(3) Are Satisfied

Rule 23(b)(3) permits a case to be litigated as a class action if (1) "questions of law or fact common to class members predominate over any questions affecting only individual members," and (2) "a class action is superior to other available methods for fairly and efficiently adjudicating the controversy." Fed. R. Civ. P. 23(b)(3). Both requirements are met here.

1. Common questions of law and fact predominate

"The predominance inquiry asks whether the common, aggregation-enabling, issues in the case are more prevalent or important than the non-common, aggregation-defeating, individual issues." *Tyson Foods, Inc. v. Bouaphakeo*, 136 S. Ct. 1036, 1045 (2016). Plaintiffs need not show that "each element of [their] claim[s] is susceptible to classwide proof." *In re Petrobras Sec.*, 862 F.3d 250, 268 (2d Cir. 2017) (quoting *Amgen Inc. v. Conn. Ret. Plans & Tr.*

Funds, 568 U.S. 455, 469 (2013)). Rather, predominance exists where the questions that are capable of common proof are "more substantial than the issues subject only to individualized proof." *Roach v. T.L. Cannon Corp.*, 778 F.3d 401, 405 (2d Cir. 2015).

Predominance is satisfied "if resolution of some of the legal or factual questions that qualify each class member's case as a genuine controversy can be achieved through generalized proof, and if these particular issues are more substantial than the issues subject only to individualized proof." *Id.* "Predominance is a test readily met in certain cases alleging . . . violations of the antitrust laws." *Amchem Prods., Inc. v. Windsor*, 521 U.S. 591, 625 (1997); *accord Am. Int'l Grp.*, 689 F.3d at 240; *see also* 6 William B. Rubenstein, *Newberg on Class Actions* § 20:25 (5th ed. 2021) ("Courts will generally certify for class treatment those group boycott claims that trigger a *per se* test."). Here, each element of Plaintiffs' claims—collusion, causation, impact, and damages—would be proven through common evidence. *See* Opening Cert. Br. at 16-50; Reply Cert. Br. at 4-29. As the number and magnitude of the issues subject to class-wide resolution dwarf any individualized inquiries presented in this case, predominance is satisfied.

2. *A class action is the superior method for resolving this case*

Finally, a case satisfies the superiority test if "the class device will achieve economies of scale, conserve judicial resources, preserve public confidence in the integrity of the judicial system by avoiding the waste and delay of repetitive proceedings, and prevent inconsistent adjudications of similar claims." *Chhab v. Darden Rests., Inc.*, 2016 WL 3004511, at *3 (S.D.N.Y. May 20, 2016). Superiority "is an 'explicitly comparative' inquiry, requiring the court to consider alternatives to class settlement." *GSE Bonds*, 414 F. Supp. 3d at 702 (quoting *In re*

Petrobras Secs., 862 F.3d at 268).[9] Where, as here, the significant cost of prosecuting the case would render individual litigation uneconomical for many plaintiffs, proceeding as a class is the superior to alternative methods of resolution. *See Elec. Books*, 2014 WL 1282293, at *23; *see also* Opening Cert. Br. at 49-50; Reply Cert. Br. at 33-34. Moreover, the sheer size of the geographically disbursed Settlement Class, which contains thousands of members, renders resolution as a class superior. *See GSE Bonds*, 414 F. Supp. 3d at 702.

C. **<u>Quinn and Cohen Should Be Appointed As Counsel for the Settlement Class</u>**

"An order that certifies a class action . . . must appoint class counsel under Rule 23(g)." Fed. R. Civ. P. 23(c)(1)(B). For the reasons discussed in Section I.C.1, *supra*, Plaintiffs request that Quinn Emanuel Urquhart & Sullivan, LLP and Cohen Milstein Sellers & Toll PLLC be appointed as counsel for the Settlement Class.

III. **<u>APPOINTMENT OF ESCROW AGENT, SETTLEMENT ADMINISTRATOR, AND RELATED RELIEF</u>**

As part of the Preliminary Approval Order, Plaintiffs seek the Court's preliminary approval of Epiq Class Action & Claims Solutions, Inc. ("Epiq") as the Settlement Administrator. *See* Preliminary Approval Order ¶ 12. Epiq is a nationally-recognized settlement administrator with a wealth of experience in administering settlements involving complex financial instruments, including credit default swaps, interest rate swaps and derivatives, and foreign exchange contracts. *See* Brockett Decl. Ex. 4.

Plaintiffs also ask that the Court approve the appointment of The Huntington National Bank ("Huntington") as the Escrow Agent. *See* Preliminary Approval Order ¶ 13. Huntington is part of Huntington Bancshares, Inc., which is a large bank holding company and listed among

[9] In the settlement context, the superiority inquiry does not require analysis of the manageability of case at trial. *See Amchem Prods.*, 521 U.S. at 620.

the S&P 500. Huntington's National Settlement Team is one of the leading settlement account programs in the country and has handled escrow accounts in countless class action settlements. The Court should further approve the Settlement Fund as Qualified Settlement Funds ("QSFs") pursuant to Internal Revenue Code § 468B and related Treasury Regulations. *See* Preliminary Approval Order ¶ 14.

Finally, Plaintiffs ask that the Court approve disbursements from the Settlement Fund for purposes of paying costs (other than attorneys' fees) incurred in preparing and providing the Settlement Class Notice and paying other administrative expenses, including notice and administration expenses incurred by the Claims Administrator up to $3.5 million prior to the Effective Date. *See* Preliminary Approval Order ¶¶ 15-17.[10] Such funds are not recoverable if the settlement is terminated or does not become final. *Id.* ¶ 15.

CONCLUSION

For these reasons, Plaintiffs respectfully request that the Court grant Plaintiffs' Motion for Preliminary Approval of the Settlement with Credit Suisse and enter the Preliminary Approval Order appointing the Escrow Agent and Settlement Administrator, and authorizing payment of certain administrative fees.

[10] Prior to the Effective Date, the settlement provides that Co-Lead Counsel may pay up to $2,500,000 in notice and administration fees from the Settlement Fund without approval of Credit Suisse, with an upper limit of $3,500,000. *See* SA § 3.10. After the Effective Date there are no limitations on Co-Lead Counsel's use of the Settlement Fund to pay reasonable and necessary notice and administration fees. *Id.*

DATED: February 11, 2022

Respectfully submitted,

COHEN MILSTEIN SELLERS & TOLL PLLC

By: /s/ Michael B. Eisenkraft
Michael B. Eisenkraft
Christopher J. Bateman
David O. Fisher
88 Pine Street, 14th Floor
New York, New York 10005
Telephone: (212) 838-7797
meisenkraft@cohenmilstein.com
cbateman@cohenmilstein.com
dfisher@cohenmilstein.com

Julie G. Reiser (*pro hac vice*)
Richard A. Koffman (*pro hac vice*)
Kit A. Pierson (*pro hac vice*)
Emmy L. Levens (*pro hac vice*)
Daniel McCuaig (*pro hac vice*)
Robert W. Cobbs (*pro hac vice*)
1100 New York Ave NW, Suite 500
Washington, DC 20005
Telephone: (202) 408-4600
jreiser@cohenmilstein.com
rkoffman@cohenmilstein.com
kpierson@cohenmilstein.com
elevens@cohenmilstein.com
dmccuaig@cohenmilstein.com
rcobbs@cohenmilstein.com

SAFIRSTEIN METCALF LLP

Peter Safirstein
1345 Avenue of the Americas, 2nd Floor
New York, New York 10105
Telephone: (212) 201-2845
psafirstein@safirsteinmetcalf.com

Counsel for Plaintiffs

QUINN EMANUEL URQUHART & SULLIVAN, LLP

By: /s/ Daniel L. Brockett
Daniel L. Brockett
Sascha N. Rand
Steig D. Olson
Deborah K. Brown
Daniel P. Mach
David LeRay
51 Madison Avenue, 22nd Floor
New York, New York 10010
Telephone: (212) 849-7000
danbrockett@quinnemanuel.com
sascharand@quinnemnuel.com
steigolson@quinnemanuel.com
deborahbrown@quinnemanuel.com
danielmach@quinnemanuel.com
davidleray@quinnemanuel.com

Jeremy D. Andersen (*pro hac vice*)
865 South Figueroa Street, 10th Floor
Los Angeles, California 90017
Telephone: (213) 443-3000
jeremyandersen@quinnemanuel.com

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM, *et al.*,

Plaintiffs,

v.

BANK OF AMERICA CORPORATION, *et al.*,

Defendants

Case No. 17-cv-6221 (KPF)

Hon. Katherine Polk Failla

DECLARATION OF DANIEL L. BROCKETT IN SUPPORT OF PLAINTIFFS' MOTION FOR PRELIMINARY APPROVAL OF THE SETTLEMENT AGREEMENT WITH CREDIT SUISSE

Pursuant to 28 U.S.C. § 1746, I, Daniel L. Brockett, declare as follows:

1. I am a member of the Bar of this Court and a Partner of the law firm Quinn Emanuel Urquhart & Sullivan, LLP. My firm, along with Cohen Milstein Sellers & Toll, PLLC, represents the Named Plaintiffs in this action. I respectfully submit this declaration in support of Plaintiffs' Motion for Preliminary Approval of the Settlement Agreement with Credit Suisse.

2. Attached hereto as Exhibit 1 is a true and correct copy of the Stipulation and Agreement of Settlement executed between Plaintiffs Iowa Public Employees' Retirement System, Los Angeles County Employees Retirement Association, Orange County Employees Retirement System, Sonoma County Employees' Retirement Association, and Torus Capital, LLC; and Defendants Credit Suisse Group AG, Credit Suisse AG, Credit Suisse Securities (USA) LLC; Credit Suisse First Boston Next Fund, Inc., and Credit Suisse Prime Securities Services (USA) LLC (the "Settlement Agreement"). Exhibit A to the Settlement Agreement is a [Proposed] Order Preliminarily Approving the Settlement Agreement, Certifying the Settlement Class, and Appointing Class Counsel and Class Representatives for the Settlement Class.

3. Attached hereto as Exhibit 2 is a true and correct copy of the firm resume of Quinn Emanuel Urquhart & Sullivan, LLP, with accompanying biographical information about the attorneys from that firm primarily involved in litigating this case.

4. Attached hereto as Exhibit 3 is a true and correct copy of the firm resume of Cohen Milstein Sellers & Toll PLLC, with accompanying biographical information about the attorneys from that firm primarily involved in litigating this case.

5. Attached hereto as Exhibit 4 is a true and correct copy of the firm resume of Plaintiffs' proposed Settlement Administrator, Epiq Class Action & Claims Solutions, Inc.

6. The Named Plaintiffs in this case, Iowa Public Employees' Retirement System, Los Angeles County Employees Retirement Association, Orange County Employees Retirement System, Sonoma County Employees' Retirement Association, and Torus Capital, LLC, each entered into Stock Loan Transactions with one or more Prime Broker Defendants during the Class Period. None are subject to any condition that would exclude them from the Settlement Class. As such, they are each members of the proposed Settlement Class. The Plaintiffs have taken an active role in the case, producing thousands of documents, preparing for and testifying in 30(b)(6) depositions, reviewing pleadings, and conferring with counsel regarding case developments. The Plaintiffs each approve the Settlement Agreement.

7. My firm and Cohen Milstein filed the initial complaint in 2017 in this action after months of independent proprietary investigation. Since that time we have litigated the case through motions to dismiss, discovery, and briefing of class certification. Our firms have devoted tens of thousands of hours of attorney time and tens of millions of dollars in expenses to the success of the case. Through our work we have gained a thorough understanding of the facts

of the case, its legal strengths and weaknesses, and the potential benefits and risks of continued litigation.

8. The Settlement Agreement was reached after extensive arm's-length negotiations with Credit Suisse and their counsel, concluding in late January 2022. In the judgment of my firm and Cohen Milstein, the Settlement Agreement is an excellent result for the proposed Settlement Class, both in terms of the value received in light of the potential benefits and risks of continued litigation against the Credit Suisse Defendants, and in terms of strategic value with respect to the remaining Defendants.

I declare, under penalty of perjury, that the foregoing is true and correct.

Executed on February 11, 2022
New York, New York

By: __*/s/ Daniel L. Brockett*________

Daniel L. Brockett
QUINN EMANUEL URQUHART & SULLIVAN, LLP
51 Madison Avenue, 22nd Floor
New York, New York 10010
Telephone: (212) 849-7000
Fax: (212) 849-7100
danbrockett@quinnemanuel.com

EXHIBIT 1

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM; LOS ANGELES COUNTY EMPLOYEES RETIREMENT ASSOCIATION; ORANGE COUNTY EMPLOYEES RETIREMENT SYSTEM; SONOMA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION; and TORUS CAPITAL, LLC, on behalf of themselves and all others similarly situated,

Plaintiffs,

v.

MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED; MERRILL LYNCH L.P. HOLDINGS, INC.; MERRILL LYNCH PROFESSIONAL CLEARING CORP.; CREDIT SUISSE AG; CREDIT SUISSE SECURITIES (USA) LLC; CREDIT SUISSE FIRST BOSTON NEXT FUND, INC.; CREDIT SUISSE PRIME SECURITIES SERVICES (USA) LLC; GOLDMAN, SACHS & CO. LLC; GOLDMAN SACHS EXECUTION & CLEARING, L.P.; J.P. MORGAN SECURITIES LLC; J.P. MORGAN PRIME, INC.; J.P. MORGAN STRATEGIC SECURITIES LENDING CORP.; J.P. MORGAN CHASE BANK, N.A.; MORGAN STANLEY & CO. LLC; PRIME DEALER SERVICES CORP.; STRATEGIC INVESTMENTS I, INC.; UBS AG; UBS AMERICAS INC.; UBS SECURITIES LLC; EQUILEND LLC; EQUILEND EUROPE LIMITED; and EQUILEND HOLDINGS LLC,

Defendants.

No. 17-cv-6221 (KPF-SLC)

STIPULATION AND AGREEMENT OF SETTLEMENT WITH CREDIT SUISSE GROUP AG; CREDIT SUISSE AG; CREDIT SUISSE SECURITIES (USA) LLC; CREDIT SUISSE FIRST BOSTON NEXT FUND, INC.; CREDIT SUISSE PRIME SECURITIES SERVICES (USA) LLC

Hon. Katherine Polk Failla

TABLE OF CONTENTS

This Stipulation and Agreement of Settlement (the "Stipulation" or the "Settlement Agreement"), dated January 20, 2022 (the "Execution Date"), submitted pursuant to Rule 23 of the Federal Rules of Civil Procedure and Rule 408 of the Federal Rules of Evidence, embodies a settlement (the "Settlement") made and entered into by and among: (i) Iowa Public Employees' Retirement System; Los Angeles County Employees Retirement Association; Orange County Employees Retirement System; Sonoma County Employees' Retirement Association; and Torus Capital, LLC, (collectively, "Plaintiffs") on behalf of themselves and of each Settlement Class Member, on the one hand, and (ii) Credit Suisse Group AG; Credit Suisse AG; Credit Suisse Securities (USA) LLC; Credit Suisse First Boston Next Fund, Inc.; and Credit Suisse Prime Securities Services (USA) LLC ("Settling Defendants"), on the other hand, by and through their counsel of record in the above-captioned litigation pending in the United States District Court for the Southern District of New York and any other actions that may be transferred or consolidated into this litigation (the "Action"). This Stipulation is intended by the parties to fully, finally, and forever resolve, discharge, and settle the Released Claims upon and subject to the terms and conditions hereof and subject to the approval of the Court. Throughout this Stipulation, all capitalized terms used, but not immediately defined, have the meanings given to them in Section III.1 below.

I. PLAINTIFFS' CLAIMS AND BENEFITS OF SETTLEMENT

Co-Lead Counsel believe Plaintiffs' claims asserted in the Action have merit. However, Co-Lead Counsel recognize and acknowledge the expense and length of continued proceedings necessary to prosecute the Action against Settling Defendants through trial. Co-Lead Counsel also have taken into account the uncertain outcome and risks of further litigation, especially in complex matters such as this Action. Co-Lead Counsel also are aware of the risks presented by the defenses asserted by Defendants. Co-Lead Counsel believe that the Settlement set forth in this Stipulation confers substantial benefits upon the Settlement Class in light of the circumstances present here. Based on their evaluation, Co-Lead Counsel have determined that the Settlement set forth in this Stipulation is in the best interests of Plaintiffs and the Settlement Class, and is fair, reasonable, and adequate.

II. SETTLING DEFENDANTS' DENIALS OF WRONGDOING AND LIABILITY

Settling Defendants have consistently denied and continue to deny that they have violated any laws and maintain that their conduct was at all times proper and in compliance with all applicable provisions of law in all material respects. Settling Defendants have denied and continue to deny specifically each and all of the claims and contentions of wrongful conduct alleged in the Action, along with all charges of wrongdoing or liability against it arising out of any of the conduct alleged, or that could have been alleged, in the Action. Settling Defendants, while continuing to deny that they are liable for the claims asserted against them in the Action, have nevertheless agreed to enter into this Settlement Agreement to avoid the further risk, expense, inconvenience, and distraction of burdensome and protracted litigation, and thereby to put fully to rest this controversy, to avoid the risks inherent in complex litigation, and to obtain complete dismissal of the Action and a release of claims as set forth herein.

III. TERMS OF STIPULATION AND AGREEMENT OF SETTLEMENT

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and among the Plaintiffs (for themselves individually and on behalf of the Settlement Class and each Settlement Class Member thereof), on the one hand, and Settling Defendants, on the other hand, by and through their respective counsel of record, that, subject to the approval of the Court pursuant to Rule 23(e) of the Federal Rules of Civil Procedure, in consideration of the benefits flowing to the parties from the Settlement set forth herein, the Released Claims shall be finally and fully compromised, settled, and released as to all Released Parties, and the Action shall be settled, compromised, and dismissed with prejudice as to the Released Credit Suisse Parties, without costs, except as stated herein, and releases extended as set forth in this Settlement Agreement, upon and subject to the terms and conditions of the Stipulation, as follows.

1. Definitions

As used in this Stipulation the following terms have the meanings specified below:

1.1 "Amended Complaint" means the Amended Class Action Complaint, dated November 17, 2017, filed in this Action.

1.2 "Authorized Claimant" means any Settlement Class Member who submits a timely and valid Proof of Claim and Release Form and whose claim for recovery has been allowed pursuant to the terms of the Stipulation.

1.3 "Bar Date" is defined in Paragraph 7.6.

1.4 "Class Notice and Administration Expenses" means the fees and expenses reasonably and actually incurred in connection with providing notice, locating Settlement Class Members, assisting with the filing of claims, administering and distributing the Net Settlement Fund to Authorized Claimants, processing Proof of Claim and Release Forms, and paying escrow or other related fees and costs, if any.

1.5 "Co-Lead Counsel" means Quinn Emanuel Urquhart & Sullivan, LLP and Cohen Milstein Sellers & Toll PLLC.

1.6 "Counterparty Lists" is defined in Paragraph 7.2.

1.7 "Court" means the United States District Court for the Southern District of New York.

1.8 "Defendants" means any and all parties named as defendants in the Amended Complaint and/or in any further amended complaint or pleading filed in this Action.

1.9 "Effective Date" means the first date by which all of the events and conditions specified in Paragraph 9.1 of the Stipulation have been met and have occurred.

1.10 "Employee Benefit Plan" means any employee benefit plan within the meaning of Section 3 of the Employee Retirement Income Security Act of 1974, 29 U.S.C. §§ 1001 *et seq.* (2014).

1.11 "Escrow Account" means the account controlled by the Escrow Agent into which the sum of $81,000,000 shall be deposited by or on behalf of Settling Defendants.

1.12 "Escrow Agent" means a qualified escrow agent selected by Co-Lead Counsel, and consented to by Settling Defendants, which shall not unreasonably withhold such consent.

1.13 "Fairness Hearing" is defined in Paragraph 5.5.

1.14 "Fee and Expense Application" is defined in Paragraph 8.1.

1.15 "Fee and Expense Award" is defined in Paragraph 8.1.

1.16 "Final" means when the last of the following with respect to the judgment approving the Settlement shall occur: (i) the expiration of the time to file a motion to alter or amend the judgment under Federal Rule of Civil Procedure 59(e) has passed without any such motion having been filed; (ii) the expiration of the time in which to appeal the judgment has passed without any appeal having been taken, which date shall be deemed to be thirty (30) days following the entry of the judgment, unless the date to take such an appeal shall have been extended by Court order or otherwise, or unless the 30th day falls on a weekend or a Court holiday, in which case the date for purposes of this Stipulation shall be deemed to be the next business day after such 30th day; and (iii) if a motion to alter or amend is filed under Federal Rule of Civil Procedure 59(e) or if an appeal is taken, immediately after the determination of that motion or appeal so that it is no longer subject to any further judicial review or appeal whatsoever, whether by reason of affirmance by a court of last resort, lapse of time, voluntary dismissal of the appeal or otherwise, and in such a manner as to permit the consummation of the Settlement substantially in accordance with the terms and conditions of this Stipulation. For purposes of this Paragraph, an "appeal" shall include any petition for a writ of certiorari or other writ that may be filed in connection with approval or disapproval of this Settlement, but shall not include any appeal that concerns only the issue of attorneys' fees and expenses, any service awards to Plaintiffs, or any Plan of Allocation of the Net Settlement Fund.

1.17 "Investment Vehicles" means any investment company or pooled investment fund, including, but not limited to: (i) mutual fund families, exchange-traded funds, fund of funds and hedge funds, in which a Defendant has or may have a direct or indirect interest, or as to which its affiliates may act as an investment advisor, but of which a Defendant or its respective affiliates is not a majority owner or does not hold a majority beneficial interest, and (ii) any Employee Benefit Plan as to which a Defendant or its affiliates acts as an investment advisor or otherwise may be a fiduciary.

1.18 "Judgment and Order of Dismissal" means the judgment and order of dismissal with prejudice to be rendered by the Court upon approval of the Settlement, in substantially the form of Exhibit B attached hereto, or such other substantially similar form agreed to by the Settling Parties.

1.19 "Net Settlement Fund" means the Settlement Fund less: (i) the amount of the Fee and Expense Award and any Plaintiffs' Service Award, if requested, and to the extent allowed by the Court; (ii) Class Notice and Administration Expenses; (iii) Taxes and Tax Expenses; and (iv) any other fees or expenses approved by the Court.

1.20 "Notice" means the Notice of Pendency and Proposed Settlement of Class Action to be sent to Settlement Class Members, as approved by the Court.

1.21 "Other Settlements" is defined in Paragraph 11.21.

1.22 "Person" means a natural person, individual, corporation, partnership, limited partnership, association, pension fund, mutual fund, joint stock company, estate, legal representative, trust, unincorporated association, government or any political subdivision or agency thereof, any business or legal entity and his, her or its spouses, heirs, predecessors, successors, representatives, beneficiaries, trustees, or assignees, and any other entity on behalf of whom the person has a legal right to make or release a claim.

1.23 "Plaintiffs" means Iowa Public Employees' Retirement System; Los Angeles County Employees Retirement Association; Orange County Employees Retirement System; Sonoma County Employees' Retirement Association; and Torus Capital, LLC.

1.24 "Plaintiffs' Counsel" means Co-Lead Counsel and any counsel who appeared on behalf of Plaintiffs in the Action.

1.25 "Plaintiffs' Service Award" is defined in Paragraph 8.2.

1.26 "Plaintiffs' Service Award Application" is defined in Paragraph 8.2.

1.27 "Plan of Allocation" means a plan or formula of allocation of the Net Settlement Fund pursuant to which the Net Settlement Fund shall be distributed to Authorized Claimants. Any Plan of Allocation is not part of the Stipulation, and the Released Credit Suisse Parties shall have no responsibility or liability with respect to the Plan of Allocation.

1.28 "Preliminary Approval Order" means an order of the Court which preliminarily approves of the Settlement set forth in the Stipulation, in substantially the form of Exhibit A attached hereto, or such other substantially similar form agreed to by the Settling Parties.

1.29 "Prime Broker Defendants" means Settling Defendants and Bank of America Merrill Lynch, Goldman Sachs, Morgan Stanley, JPMorgan, and UBS, including affiliates named in the Amended Complaint (ECF No. 73).

1.30 "Proof of Claim and Release Form" means the form as eventually approved by the Court for such use.

1.31 "Released Claims" means the Released Class Claims and the Released Defendants' Claims.

1.32 "Released Class Claims" shall be any and all manner of claims, including Unknown Claims, causes of action, cross-claims, counter-claims, charges, liabilities, demands, judgments, suits, obligations, debts, setoffs, rights of recovery, or liabilities for any obligations of any kind whatsoever (however denominated), whether class or individual, in law or equity or arising under constitution, statute, regulation, ordinance, contract, or otherwise in nature, for fees, costs, penalties, fines, debts, expenses, attorneys' fees, or damages, whenever incurred, and liabilities of any nature whatsoever (including joint and several), known or unknown, suspected or unsuspected, asserted or unasserted, which the Releasing Class Parties ever had, now have, or hereafter can, shall or may have, individually, representatively, derivatively, or in any other capacity, against the Released Credit Suisse Parties, arising from or related in any way to the conduct alleged or that could have been alleged in this Action that also arise from or relate to the factual predicate of the Action, to the fullest extent allowed by law, from the beginning of time through the Execution Date. The Released Class Claims do not include: (i) any claims to enforce the Settlement; and (ii) any claims of a Person that submits a timely Request for Exclusion in connection with the Notice whose request is accepted by the Court.

1.33 "Released Class Parties" and "Releasing Class Parties" means individually and collectively Plaintiffs and each Settlement Class Member, on behalf of themselves and any of their respective past, present or future officers, directors, stockholders, agents, employees, legal or other representatives, partners, associates, trustees, beneficiaries, parents, subsidiaries, divisions, affiliates, heirs, executors, administrators, purchasers, predecessors, successors, and assigns, whether or not they object to the Settlement, and whether or not they make a claim for payment from the Net Settlement Fund. In the case of a Settlement Class Member that is an Employee Benefit Plan (or a fiduciary acting on behalf of an Employee Benefit Plan), the terms of this Stipulation shall bind the Employee Benefit Plan and all Persons who may have any claim by reason of their relationship with the Employee Benefit Plan, including all of its fiduciaries, beneficiaries and participants. For the avoidance of doubt, Persons whose Requests for Exclusion are accepted by the Court are not "Released Class Parties" or "Releasing Class Parties."

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

1.35 "Released Defendants' Claims" means any and all manner of claims, including Unknown Claims, that arise out of or relate in any way to the Releasing Class Parties' or Co-Lead

Counsel's institution, prosecution, or settlement of the Released Class Claims, except for claims relating to the enforcement of the Settlement.

1.36 "Released Parties" means Released Credit Suisse Parties and Released Class Parties.

1.37 "Releasing Parties" means the Releasing Credit Suisse Parties and the Releasing Class Parties.

1.38 "Settlement Administrator" means a qualified administrator selected by Co-Lead Counsel, and consented to by Settling Defendants, which shall not unreasonably withhold such consent.

1.39 "Settlement Amount" means the sum of eighty-one million USD ($81,000,000).

1.40 "Settlement Class" means all Persons or entities who, directly or through an agent, entered into Stock Loan Transactions with the Prime Broker Defendants, direct or indirect parents, subsidiaries, or divisions of the Prime Broker Defendants, or the Released Credit Suisse Parties, in the United States from January 7, 2009 through the Execution Date (the "Settlement Class Period"), inclusive. Excluded from the Settlement Class are Defendants and their employees, affiliates, parents, subsidiaries, and co-conspirators, should any exist, whether or not named in the Amended Complaint, entities which previously requested exclusion from any Class in this Action,[1] the United States Government, and all of the Released Credit Suisse Parties, provided, however, that Investment Vehicles shall not be excluded from the definition of the Settlement Class.

[1] These entities are Citadel LLC, Two Sigma Investments, PDT Partners, Renaissance Technologies LLC, TGS Management, Voloridge Investment Management, and the D.E. Shaw Group and their corporate parents, subsidiaries, and wholly owned affiliates (the "Opt-out Entities").

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

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

1.43 "Settling Defendants' Counsel" means Cahill Gordon & Reindel LLP at the address listed in the signature block hereto.

1.44 "Settling Parties" means Plaintiffs and Settling Defendants.

1.45 "Stock Loan Transactions" means any transaction, including any transaction facilitated by a prime broker or agent lender, in which an owner of a stock temporarily lends the stock in exchange for collateral or in which a borrower of a stock provides collateral to temporarily borrow a security, and in which the stock is ultimately returned to the lender at a later date, at which time the lender returns the collateral to the borrower. "Stock Loan Transactions" do not include non-equity securities lending or stock repurchase (repo) transactions.

1.46 "Summary Notice" means the summary notice form as eventually approved by the Court.

1.47 "Taxes" is defined in Paragraph 4.4.

1.48 "Tax Expenses" is defined in Paragraph 4.4.

1.49 "Termination Notice" is defined in Paragraph 9.2.

1.50 "Unknown Claims" means any and all Released Claims against the Released Parties which Releasing Parties do not know or suspect to exist in his, her, or its favor as of the Effective Date, which if known by the Releasing Parties or Released Parties might have affected his, her, or its decision(s) with respect to the Settlement. With respect to any and all Released

Claims, the parties stipulate and agree that, by operation of the Judgment and Order of Dismissal, upon the Effective Date, Releasing and Released Parties shall have expressly waived, and each Settlement Class Member shall be deemed to have waived and by operation of the Judgment and Order of Dismissal shall have expressly waived, the provisions, rights, and benefits of Cal. Civ. Code Section 1542, which provides:

> A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

and any and all provisions, rights and benefits conferred by any law of any state or territory of the United States, or principle of common law, which is similar, comparable, or equivalent to Cal. Civ. Code Section 1542. The Releasing Parties and Released Parties may hereafter discover facts other than or different from those which he, she, or it now knows or believes to be true with respect to the subject matter of the Released Claims. Nevertheless, the Releasing Parties shall expressly, fully, finally, and forever settle and release, and each Settlement Class Member upon the Effective Date shall be deemed to have and by operation of the Judgment and Order of Dismissal shall have, fully, finally, and forever settled and released, any and all of their respective Released Claims, whether or not concealed or hidden, without regard to the subsequent discovery or existence of such different or additional facts. The Settling Parties acknowledge that the inclusion of Unknown Claims in the definition of Released Claims was separately bargained for and was a key element of the Settlement Agreement.

2. CAFA Notice

2.1 Pursuant to the Class Action Fairness Act ("CAFA"), no later than ten (10) days after the Settlement Agreement is filed with the Court, Settling Defendants, at their own cost, shall serve proper notice of the proposed Settlement upon those who are entitled to such notice pursuant to CAFA.

3. The Settlement

A. The Settlement Fund

3.1 Settling Defendants shall pay the Settlement Amount in cash into the Escrow Account controlled by the Escrow Agent within twenty-one (21) days of the Court's entry of the Preliminary Approval Order, provided that the time by which Settling Defendants must pay into the Escrow Account does not begin to run until Co-Lead Counsel has provided Settling Defendants with such information as Settling Defendants may require to complete the wire transfer.

3.2 Plaintiffs shall have the right, but not the obligation, to terminate the Settlement Agreement after the failure of Settling Defendants to timely pay the Settlement Amount in accordance with Paragraph 3.1, if Settling Defendants fail to cure such failure within seven (7) business days of receiving a written notice from Co-Lead Counsel demanding such cure.

3.3 Except as required by Paragraph 3.1 concerning payment of the Settlement Amount, and except as provided in Paragraph 9.10 concerning refund upon termination of the settlement, the Released Credit Suisse Parties shall have no responsibility for any other costs, including any attorneys' fees and expenses or costs of class notice and claims administration, but all such fees, expenses, and costs shall be paid from the Settlement Fund, as approved by the Court. For the sake of clarity, Settling Defendants shall bear their own costs in complying with their obligations set forth in Paragraph 7.2 and Section 10, except as otherwise agreed to by the parties or provided for in this Stipulation.

3.4 Plaintiffs and Settlement Class Members shall look solely to the Settlement Fund as full, final, and complete satisfaction of all Released Class Claims. Except as set forth in Paragraph 3.1, the Released Credit Suisse Parties shall have no obligation under this Settlement

Agreement or the Settlement to pay or cause to be paid any amount of money, and the Released Credit Suisse Parties shall have no obligation to pay or reimburse any fees, expenses, costs, liability, losses, Taxes, or damages whatsoever alleged or incurred by Plaintiffs, Settlement Class Members, or by any Releasing Class Parties, including but not limited to by their attorneys, experts, advisors, agents, or representatives, with respect to the Action and the Released Class Claims. Plaintiffs and Settlement Class Members acknowledge that as of the Effective Date, the releases given herein shall become effective immediately by operation of the Judgment and Order of Dismissal and shall be permanent, absolute, and unconditional.

B. The Escrow Agent

3.5 The Escrow Agent shall invest the Settlement Amount deposited pursuant to Paragraph 3.1 exclusively in instruments backed by the full faith and credit of the United States Government or fully insured by the United States Government or an agency thereof and shall reinvest the proceeds of these instruments as they mature in similar instruments at their then-current market rates. All costs and risks related to the investment of the Settlement Fund in accordance with the guidelines set forth in this Paragraph shall be borne by the Settlement Fund.

3.6 Neither the Released Parties nor their counsel shall have any responsibility for or liability whatsoever with respect to any losses suffered by, or fluctuations in the value of, the Settlement Fund.

3.7 The Escrow Agent shall not disburse the Settlement Fund except: (a) as provided in the Stipulation; (b) by an order of the Court; or (c) with the written agreement of counsel for the Settling Parties.

3.8 Subject to further order(s) and/or directions as may be made by the Court, or as provided in the Stipulation, the Escrow Agent is authorized to execute such transactions consistent with the terms of the Stipulation. The Released Parties shall have no responsibility for, interest in, or liability whatsoever with respect to the actions of the Escrow Agent or any transaction executed by the Escrow Agent.

3.9 All funds held by the Escrow Agent shall be deemed and considered to be in *custodia legis* of the Court and shall remain subject to the jurisdiction of the Court until such time as such funds shall be distributed in their entirety in accordance with the Settlement Agreement and further order(s) of the Court.

3.10 Prior to the Effective Date, Co-Lead Counsel, without further approval of Settling Defendants, may pay from the Settlement Fund up to $2,500,000.00 in Class Notice and Administration Expenses, Taxes, and Tax Expenses associated with providing notice to the Settlement Class and the administration of the Settlement. Prior to the Effective Date, payment of any Class Notice and Administration Expenses, Taxes, and Tax Expenses exceeding $2,500,000.00 shall require notice to, and agreement from, Settling Defendants, through Settling Defendants' Counsel, and court approval. Prior to the Effective Date, in no event shall payments be made from the Settlement Fund of any Class Notice and Administration Expenses, Taxes, and Tax Expenses associated with providing notice to the Settlement Class and the administration of the Settlement exceeding $3,500,000.00. Subsequent to the Effective Date, without further approval by Settling Defendants, the Settlement Fund may be used by Co-Lead Counsel to pay all reasonable and necessary Class Notice and Administration Expenses. Funds expended pursuant to this Paragraph are not recoverable if this Settlement is terminated or does not become final.

4. Taxes

4.1 The Settling Parties agree to treat the Settlement Fund as being at all times a Qualified Settlement Fund within the meaning of Treasury Regulation Section 1.468B-1, and agree not to take any position for tax purposes inconsistent therewith. The Settlement Fund, less any amounts incurred for Taxes, Tax Expenses, and Class Notice and Administration Expenses pursuant to Paragraph 3.10, plus any accrued interest thereon, shall be returned to Settling Defendants, as provided in Paragraph 9.10, if the Settlement does not become effective for any reason, including by reason of a termination of this Agreement.

4.2 In addition, the Escrow Agent shall timely make such elections as necessary or advisable to carry out the provisions of this Section 4, including the "relation-back election" (as defined in Treasury Regulation Section 1.468B-1) back to the earliest permitted date. Such elections shall be made in compliance with the procedures and requirements contained in such regulations. It shall be the responsibility of the Escrow Agent to timely and properly prepare and deliver, or cause to be prepared and delivered, the necessary documentation for signature by all necessary parties, and thereafter to cause the appropriate filing to occur.

4.3 For the purpose of Section 468B of the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder, the "administrator" shall be the Escrow Agent. The Escrow Agent shall timely and properly file, or cause to be filed, all informational and other tax returns necessary or advisable with respect to the Settlement Fund (including, without limitation, the returns described in Treasury Regulation Section 1.468B-2(k)).

4.4 All (a) taxes (including any estimated taxes, interest, or penalties) arising with respect to the income earned on the Settlement Amount, including any taxes or tax detriments that may be imposed upon the Settling Parties or their counsel with respect to any income earned on the Settlement Amount for any period during which the Settlement Amount does not qualify as a Qualified Settlement Fund for federal or state income tax purposes ("Taxes"), and (b) expenses and costs incurred in connection with the operation and implementation of this Section 4 (including, without limitation, expenses of tax attorneys and/or accountants, mailing and distribution costs and expenses relating to filing (or failing to file) the returns described in this

Section 4) ("Tax Expenses"), shall be paid out of the Settlement Amount; in all events the Settling Parties and their counsel shall have no liability or responsibility for the Taxes or the Tax Expenses. Further, Taxes and Tax Expenses shall be treated as, and considered to be, a cost of administration of the Settlement Fund and shall be timely paid by the Escrow Agent out of the Escrow Account without prior approval of Settling Defendants, and the Escrow Agent shall be obligated (notwithstanding anything herein to the contrary) to withhold from distribution to Authorized Claimants any funds necessary to pay such amounts, including the establishment of adequate reserves for any Taxes and Tax Expenses (as well as any amounts that may be required to be withheld under Treasury Regulation Section 1.468B-2(l)(2)). The Settling Parties hereto agree to cooperate with the Escrow Agent, each other, and their tax attorneys and accountants to the extent reasonably necessary to carry out the provisions of this Section 4.

5. Preliminary Approval Order, Notice, and Fairness Hearing

5.1 Within sixty (60) days following the Execution Date, Co-Lead Counsel shall submit to the Court, and Settling Defendants shall have an opportunity to comment on but shall not oppose, a motion requesting, *inter alia*, the preliminary approval of the Settlement set forth in the Stipulation. The motion shall:

i. seek certification of the Settlement Class solely for settlement purposes, pursuant to Fed. R. Civ. P. 23(a) and Fed. R. Civ. P. 23(b)(3);

ii. request preliminary approval of the Settlement set forth in this Stipulation as fair, reasonable, and adequate within the meaning of Fed. R. Civ. P. 23;

iii. seek the appointment of Plaintiffs as Settlement Class representatives and Co-Lead Counsel as Settlement Class counsel under Fed. R. Civ. P. 23;

iv. explain that Plaintiffs will submit a separate application seeking approval of the form and method of dissemination of the Notice, which shall, among other things, apprise each Settlement Class Member of his, her, or its right to exclude themselves from, or object to, the settlement;

v. seek appointment of a Settlement Administrator and Escrow Agent; and

vi. seek entry of the proposed Preliminary Approval Order materially in the form of Exhibit A attached hereto, unless otherwise agreed to by the parties.

5.2 The proposed Preliminary Approval Order submitted by Plaintiffs in connection with their motion for preliminary approval of the Settlement shall provide that (1) proceedings will be stayed with respect to the Settling Defendants until the Court renders a final decision on approval of the Settlement; and (2) pending that final determination, each Plaintiff and Settlement Class Member, either directly, representatively, or in any other capacity, shall be enjoined from prosecuting in any forum any Released Class Claims against any of the Released Credit Suisse Parties.

5.3 Though the parties agree that it is not practical to establish a timeline or to create the detailed contents of a Notice at this time, the eventual Notice, to also be approved by the Court prior to distribution, will set forth a summary of the terms of this Stipulation (including a description of the Released Class Claims), the proposed Plan of Allocation and Co-Lead Counsel's request for attorneys' fees, costs and expenses; the date and time of the Fairness Hearing; the right to object to the Settlement, proposed Plan of Allocation, or request for fees and expenses; the right to appear at the Fairness Hearing; and the right to request exclusion from the Settlement Class.

5.4 Plaintiffs shall, in moving for approval of a Class Notice plan, include a proposed process for, *inter alia*, opting out. The terms requested shall not, without agreement, be materially different from the following:

i. Any Persons falling within the definition of the Settlement Class may request to be excluded from the Settlement Class ("Request for Exclusion"). A Request for Exclusion must be: (i) in writing, (ii) signed by the Person or his, her, or its authorized representative, (iii) state the name, address, and phone number of that Person, and (iv) include: (1) proof of membership in the Settlement Class, including documentation evidencing Stock Loan Transactions with the Prime Broker Defendants during the Settlement Class Period; and (2) a signed statement that "I/we hereby request that I/we be excluded from the Settlement Class in the *Iowa Public Employees' Retirement System v. Bank of America Corp.* Litigation."

ii. The request must be mailed to the Settlement Administrator at the address provided in the Notice and be postmarked no later than fifty (50) days prior to the date set for the Fairness Hearing or any other date set by the Court.

iii. Unless the Court orders otherwise, a Request for Exclusion that does not include all of the foregoing information, that does not contain the proper signature, that is sent to an address other than the one designated in the Notice, or that is not sent within the time specified, shall be invalid, and the Person(s) filing such an invalid request shall be a Settlement Class Member and shall be bound by the Settlement set forth in the Settlement Agreement, if approved. All persons who submit valid and timely Requests for Exclusion in the manner set forth in this Paragraph shall be excluded from the Settlement Class, shall have no rights under the Settlement Agreement, shall not share in the distribution of the Net Settlement Fund, and shall not be bound by the Settlement Agreement. Co-

Lead Counsel shall cause to be provided to Settling Defendants' Counsel a list of all Persons, if any, who have filed a Request for Exclusion, together with all such Requests for Exclusion and all documents and information provided with such Requests, and any written revocation of Requests for Exclusion, within five (5) business days of being notified by the Settlement Administrator of receipt of any such materials.

iv. Any Person who has not requested exclusion from the Settlement Class and who objects to the settlement set forth in this Settlement Agreement may appear in person or through counsel, at that Person's own expense, at the Fairness Hearing to present any evidence or argument that the Court deems proper and relevant. However, subject to the Court's discretion, no such Person shall be heard, and no papers, briefs, pleadings, or other documents submitted by any such Person shall be received and considered by the Court, unless such Person properly submits a written objection that includes: (i) a notice of intention to appear; (ii) proof of membership in the Settlement Class, including documentation evidencing Stock Loan Transactions with the Prime Broker Defendants during the Settlement Class Period; and (iii) the specific grounds for the objection and any reasons why such Person desires to appear and be heard, as well as all documents or writings that such Person desires the Court to consider. Such a written objection must be both filed with the Court no later than fifty (50) days prior to the date set for the Fairness Hearing and mailed to Co-Lead Counsel and to Settling Defendants' Counsel at the addresses provided in the Notice and postmarked no later than fifty (50) days prior to the date set for the Fairness Hearing. Any Person that fails to object in the manner prescribed herein shall be deemed to have waived his, her, or its objections and will forever be barred from making any such objections in the Action, unless otherwise excused for good cause shown, as determined by the Court.

5.5 Co-Lead Counsel shall request that after notice is given to the Settlement Class, the Court hold a hearing (the "Fairness Hearing") and approve the Settlement of the Action as set forth herein. At or after the Fairness Hearing, Co-Lead Counsel also shall request that the Court approve the proposed Plan of Allocation and the Fee and Expense Award and, if requested, the Plaintiffs' Service Award.

5.6 If preliminary approval of the Settlement Agreement is entered by the Court, Plaintiffs shall seek, and Settling Defendants shall not oppose, entry of a Judgment and Order of Dismissal that:

i. certifies the Settlement Class pursuant to Fed. R. Civ. P. 23(a) and Fed. R. Civ. P. 23(b)(3) solely for the purpose of the settlement;

ii. approves finally the settlement set forth in this Settlement Agreement and its terms as being a fair, reasonable, and adequate settlement as to Settlement Class Members within the meaning of Fed. R. Civ. P. 23 and directing its consummation according to its terms;

iii. finds that the Notice constituted due, adequate, and sufficient notice of the settlement set forth in this Settlement Agreement and the Fairness Hearing and meets the requirements of due process and the Federal Rules of Civil Procedure;

iv. directs that, as to Settling Defendants, the Action shall be dismissed with prejudice and, except as provided for in this Settlement Agreement, without costs;

v. bars claims by any Person against any of the Released Credit Suisse Parties for contribution or indemnification (however denominated) for all or a portion of any amounts paid or awarded in the Action by way of settlement, judgment, or otherwise;

vi. orders that the Releasing Class Parties are permanently enjoined and barred from instituting, commencing, or prosecuting any action or other proceeding asserting any Released Class Claims against any Released Credit Suisse Parties;

vii. retains with the Court exclusive jurisdiction over the settlement and this Settlement Agreement, including the administration and consummation of the settlement; and

viii. determines under Fed. R. Civ. P. 54(b) that there is no just reason for delay and directs that the judgment of dismissal with prejudice as to Settling Defendants shall be final and entered forthwith.

5.7 It shall be the Settlement Administrator's responsibility, under supervision of Co-Lead Counsel, to disseminate the Notice and Summary Notice in accordance with this Stipulation and as ordered by the Court. Settlement Class Members shall have no recourse as to the Released Credit Suisse Parties, Settling Defendants' Counsel, Plaintiffs, and Plaintiffs' Counsel with respect to any claims they may have that arise from any failure of the notice process.

6. Releases

6.1 The obligations incurred pursuant to this Settlement Agreement shall be in full and final disposition of: (i) the Action against Settling Defendants; (ii) any and all Released Class

Claims against Released Credit Suisse Parties; and (iii) any and all Released Defendants' Claims against Released Class Parties.

6.2 Upon the Effective Date, Plaintiffs and each of the Releasing Class Parties: (i) shall be deemed to have, and by operation of the Judgment and Order of Dismissal, shall have, fully, finally, and forever waived, released, relinquished, and discharged against the Released Credit Suisse Parties (1) any and all Released Class Claims, regardless of whether such Releasing Class Parties execute and deliver proof of claims and release forms, and (2) any rights to the protections afforded under California Civil Code § 1542, which provides:

> A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

and/or any other similar, comparable, or equivalent laws; (ii) shall forever be enjoined and permanently barred from the commencement, assertion, institution, maintenance, prosecution, or enforcement of any action or other proceeding in any court of law or equity, arbitration tribunal, administrative forum, or forum of any kind, asserting any of the Released Class Claims against the Released Credit Suisse Parties and any claims arising out of, relating to, or in connection with the defense, settlement, or resolution of the Action or the Released Class Claims, except for claims relating to the enforcement of the Settlement; and (iii) agree and covenant not to sue, either directly, representatively, or in any other capacity, any of the Released Credit Suisse Parties on the basis of the Released Class Claims or to assist any third party in commencing or maintaining any suit against any Released Credit Suisse Parties related in any way to any Released Class Claims. Claims to enforce the terms of this Stipulation are not released. The Released Credit Suisse Parties and Releasing Class Parties shall be deemed by operation of law to acknowledge, that the waiver of Unknown Claims, and of the provisions, rights and benefits of Section 1542 of the California

Civil Code, was bargained for and is a key element of the Settlement of which the release in this Paragraph is a part. The releases set forth herein are to be construed pursuant to New York law as set forth in Paragraph 11.19, including N.Y. General Obligations Law Section 15-108, which bars claims for contribution by joint tortfeasors and other similar claims. To the extent permitted by law, this Stipulation is expressly intended to absolve the Released Credit Suisse Parties of any claims for contribution, indemnification or similar claims from other Defendants in the Action, arising out of or related to the Released Claims, in the manner and to the fullest extent permitted under the law of New York or any other jurisdiction that might be construed or deemed to apply to any claims for contribution, indemnification or similar claims against any of the Released Credit Suisse Parties.

6.3 Upon the Effective Date, each of the Releasing Credit Suisse Parties shall be deemed to have, and by operation of the Judgment and Order of Dismissal shall have, fully, finally, and forever released, relinquished, and discharged Released Class Parties from any and all Released Defendants' Claims (including, without limitation, Unknown Claims) arising out of, relating to, or in connection with, the institution, prosecution, assertion, settlement, or resolution of the Action or the Released Class Claims, except for claims relating to the enforcement of the Settlement. The Releasing Credit Suisse Parties and Released Class Parties acknowledge that the waiver of Unknown Claims, and of the provisions, rights, and benefits of Section 1542 of the California Civil Code, was bargained for and is a key element of the Settlement of which the release in this Paragraph is a part.

6.4 In the event this Settlement Agreement is terminated or any material condition for the final approval of this Settlement Agreement is not satisfied, the release and covenant not to sue provisions of the foregoing Paragraphs shall be null and void and unenforceable.

7. Administration and Calculation of Claims, Final Awards, and Supervision and Distribution of the Settlement Fund

7.1 The Settlement Administrator, subject to such supervision and direction of the Court or Co-Lead Counsel, shall provide notice of the Settlement to the Settlement Class, shall administer and calculate the claims submitted by Settlement Class Members pursuant to the Plan of Allocation, and shall oversee distribution of the Net Settlement Fund to Authorized Claimants.

7.2 Unless otherwise agreed to by the parties, within sixty (60) days of entry of the Preliminary Approval Order, Settling Defendants shall provide or cause to be provided to the Settlement Administrator a list of names and addresses of members of the Settlement Class who were counterparties with Settling Defendants in Stock Loan Transactions, to the extent such information is reasonably available in electronic databases in the possession of Settling Defendants ("Counterparty Lists"), and the retrieval and disclosure of which is permitted by law and would not constitute a substantial burden or expense, or shall otherwise confirm it has arranged to provide notice to those members of the Settlement Class. The Counterparty Lists shall be governed by the Protective Order entered in the Action and used only for the purposes of facilitating the provision of Notice to Settlement Class Members and the administration of the Settlement. The parties shall furnish to the Court a progress report within sixty (60) days after entry of the Preliminary Approval Order and, should it prove necessary, every sixty (60) days thereafter. Counterparty Lists shall be provided in an electronic format. Settling Defendants shall be responsible for any costs or expenses related to providing Counterparty Lists and/or providing notice through alternate means to members of the Settlement Class who were counterparties with or transacted in Stock Loan Transactions with Settling Defendants. The Settling Parties shall meet and confer in good faith as to whether notice to any portion of the Settlement Class through alternate means is appropriate; any disputes shall be reserved for resolution by the Court.

7.3 In accordance with the schedule eventually approved by the Court, Co-Lead Counsel will cause the Settlement Administrator to mail to all members of the Settlement Class, who can be identified using reasonably available data and through reasonable efforts, a Proof of Claim and Release Form. The Notice and Proof of Claim and Release Form shall also be posted on the Settlement Administrator's website. In accordance with the schedule to be approved by the Court, the Summary Notice will also be published, at minimum, once in the national edition of *Investor's Business Daily*, the *Financial Times*, and *The Wall Street Journal*, and once over a national newswire service. The cost of providing such notice shall be paid out of the Settlement Fund.

7.4 The Settlement Fund shall be applied as follows:

(a) to pay all Class Notice and Administration Expenses;

(b) to pay the Taxes and Tax Expenses;

(c) to pay the Fee and Expense Award subject to the approval of the Court;

(d) to pay any Plaintiffs' Service Award subject to the approval of the Court; and

(e) after the Effective Date, to distribute the Net Settlement Fund to Authorized Claimants pursuant to the Stipulation and the Plan of Allocation, as approved by the Court.

7.5 Upon the Effective Date and thereafter, and in accordance with the terms of the Stipulation, the Plan of Allocation, or such further approval and further order(s) of the Court as may be necessary or as circumstances may require, the Net Settlement Fund shall be distributed to Authorized Claimants, subject to and in accordance with the following.

7.6 Each Person claiming to be an Authorized Claimant shall be required to submit to the Settlement Administrator a completed Proof of Claim and Release Form postmarked or submitted electronically by the date specified in the Preliminary Approval Order, or such other time as may be set by the Court (the "Bar Date"), signed under penalty of perjury and supported by such documents, if any, as are specified in the Proof of Claim and Release Form.

7.7 Except as otherwise ordered by the Court, all Settlement Class Members who fail to submit a Proof of Claim and Release Form by the Bar Date, or such other period as may be ordered by the Court, or who submit a Proof of Claim and Release Form that is rejected and not later re-submitted and accepted before the Bar Date, shall be forever barred from receiving any payments pursuant to the Stipulation and the Settlement set forth herein, but will in all other respects be subject to and bound by the provisions of the Stipulation, the releases contained herein, and the Judgment and Order of Dismissal, and will be barred from bringing any action or proceeding against the Released Credit Suisse Parties concerning the Released Class Claims. Notwithstanding the foregoing, Co-Lead Counsel shall have the discretion (but not the obligation) to accept late-submitted claims for processing by the Settlement Administrator, so long as the distribution of the Net Settlement Fund to Authorized Claimants is not materially delayed thereby. No Person shall have any claim against Plaintiffs, Plaintiffs' Counsel, or the Settlement Administrator by reason of the decision to exercise or not exercise such discretion.

7.8 The Settlement Administrator shall calculate the claims of Authorized Claimants substantially in accordance with the Plan of Allocation set forth in the Notice and approved by the Court. The Released Credit Suisse Parties, shall have no liability, obligation, or responsibility for the administration of the Settlement or disbursement of the Net Settlement Fund. Following the Effective Date, the Settlement Administrator shall distribute the Net Settlement Fund to

Authorized Claimants pursuant to the Plan of Allocation. Payment pursuant to this Settlement Agreement and the Plan of Allocation shall be deemed final and conclusive against all Settlement Class Members.

7.9 All proceedings with respect to the administration, processing, and determination of claims and the determination of any controversies relating thereto, including disputed questions of law or fact with respect to the validity of claims, shall be subject to the jurisdiction of the Court. As provided herein, the Released Credit Suisse Parties shall have no liability, obligation, or responsibility for the administration of the Settlement or disbursement of the Net Settlement Fund; therefore, any such proceedings naming or purporting to name the Released Credit Suisse Parties should be dismissed with prejudice as to the Released Credit Suisse Parties.

7.10 Co-Lead Counsel shall provide the Plan of Allocation to Settling Defendants for review and comment at least ten (10) business days before submitting it to the Court. Settling Defendants shall provide their comments on the Plan of Allocation to Co-Lead Counsel within seven (7) business days of receiving it. Settling Defendants shall take no position in any Court proceedings with respect to the Plan of Allocation or any other such plan as may be approved by the Court.

7.11 Other than in the event of the termination of the Settlement pursuant to Paragraphs 9.2 and 9.7, Settling Defendants shall not have a reversionary interest in the Net Settlement Fund. If there is any balance remaining in the Net Settlement Fund after a reasonable period of time after the initial date of distribution of the Net Settlement Fund, the Settlement Administrator shall, if feasible, allocate such balance among Authorized Claimants in an equitable and economic fashion. These redistributions shall be repeated until the remaining balance in the Net Settlement Fund is *de minimis*, and any such remaining balance shall be donated to an appropriate 501(c)(3) non-profit organization selected by Co-Lead Counsel and approved by the Court.

7.12 The finality of the Court's Judgment and Order of Dismissal approving the Stipulation shall not be conditioned on any ruling by the Court concerning the Plan of Allocation of the Net Settlement Fund. Any order or proceeding relating to a request for approval of the Plan of Allocation, or any appeal from any order relating thereto or reversal or modification thereof, shall not operate to terminate the Settlement Agreement; nor shall it affect or delay the Effective Date or the effectiveness or finality of the Judgment and Order of Dismissal or the release of the Released Claims.

7.13 No Person shall have any claim against Plaintiffs, Plaintiffs' Counsel, Released Parties, Settling Defendants, Settling Defendants' Counsel, or the Settlement Administrator based on distributions made substantially in accordance with the Stipulation and the Settlement contained herein, the Plan of Allocation, or otherwise as further ordered by the Court. This provision does not include any claim by any party for breach of this Stipulation.

8. Plaintiffs' Counsel's Attorneys' Fees, Costs, Charges and Expenses

8.1 Co-Lead Counsel may submit an application or applications for distributions to them from the Settlement Fund (the "Fee and Expense Application") for: (a) an award of attorneys' fees; plus (b) expenses or charges in connection with prosecuting the Action; plus (c) interest on both amounts as earned by the Settlement Fund (until paid) as may be awarded by the Court. Any and all such fees, expenses, charges, and costs awarded by the Court (the "Fee and Expense Award"), shall be payable solely out of the Settlement Fund.

8.2 Plaintiffs may submit an application or applications to the Court for an award for their time and expense in representing the Settlement Class (the "Plaintiffs' Service Award

Application"). Any such amounts awarded to Plaintiffs, as approved by the Court (the "Plaintiffs' Service Award"), shall be payable solely out of the Settlement Fund.

8.3 The Fee and Expense Award shall be paid to Co-Lead Counsel from the Settlement Fund, as ordered, immediately following entry of an order by the Court granting such award. In the event that the Effective Date does not occur, or the order making the Fee and Expense Award pursuant to Paragraph 8.2 is reversed or modified by final non-appealable order, or if this Stipulation is cancelled or terminated for any reason, and in the event any part of the Fee and Expense Award has been paid, then Plaintiffs' Counsel shall, in an amount consistent with such reversal, modification, cancellation, or termination, refund such fees or expenses to the Settlement Fund, plus interest earned thereon at the same rate as earned on the Settlement Fund, within thirty (30) days from receiving notice from Settling Defendants' Counsel or from a court of competent jurisdiction. Any refunds required pursuant to this Paragraph shall be the several obligation of each Plaintiffs' Counsel receiving fees or expenses to make appropriate refunds or repayments to the Settlement Fund. Each Plaintiffs' Counsel, as a condition of receiving such fees and/or expenses on behalf of itself and each partner and/or shareholder of it, agrees that its law firm and its partners and/or shareholders are subject to the jurisdiction of the Court for the purpose of enforcing the provisions of this Paragraph.

8.4 The procedure for and the allowance or disallowance by the Court of the Fee and Expense Award or Plaintiffs' Service Award to be paid out of the Settlement Fund are not part of the Settlement, and any order or proceeding relating to the Fee and Expense Application or Plaintiffs' Service Award, or any appeal from any order relating thereto or reversal or modification thereof, shall not operate to terminate or cancel the Settlement, or affect or delay the finality of the Judgment and Order of Dismissal (including the releases contained herein).

8.5 The Released Credit Suisse Parties shall not have any responsibility for or liability with respect to the payment of any Fee and Expense Award to any Plaintiffs' Counsel, or with respect to the allocation among Plaintiffs' Counsel and/or any other Person who may assert some claim thereto, of any Fee and Expense Award that the Court may make in the Action.

9. Conditions of Settlement and Effect of Disapproval, Cancellation, or Termination

9.1 The Effective Date of the Stipulation shall be conditioned on the occurrence of all of the following events:

(a) execution of this Stipulation and such other documents as may be required to obtain final Court approval of the Stipulation;

(b) the Settlement Amount has been deposited into the Escrow Account as provided by Paragraph 3.1;

(c) no party has exercised its option to terminate the Stipulation pursuant to Paragraphs 9.2 or 9.7;

(d) the Court has entered the Preliminary Approval Order;

(e) the Court has entered the Judgment and Order of Dismissal that, *inter alia*, dismisses with prejudice the Action as to Settling Defendants; and

(f) the Judgment and Order of Dismissal has become Final.

9.2 Plaintiffs, through Co-Lead Counsel, and Settling Defendants, through Settling Defendants' Counsel, shall, in each of their separate discretions, have the right to terminate the Settlement set forth in this Settlement Agreement by providing written notice of their election to do so ("Termination Notice") to all other Parties hereto within thirty (30) days of the date on which: (i) the Court or any appellate court enters an Final order declining to enter the Preliminary Approval Order in any material respect; (ii) the Court or any appellate court enters an order refusing to approve this Settlement Agreement or any material part of it; (iii) the Court enters an order declining to enter the Judgment and Order of Dismissal in any material respect; or (iv) the Judgment and Order of Dismissal is modified or reversed by a court of appeal or any higher court in any material respect. If Settling Defendants or Plaintiffs elect to terminate the Settlement pursuant to this section, all pre-settlement rights and positions of Settling Parties shall be restored and the fact and terms of the Settlement shall not be admissible in any trial or otherwise used against any party. Notwithstanding this Paragraph, the Court's determination as to the Fee and Expense Application, Plaintiffs' Service Award Application, and/or any Plan of Allocation, or any determination on appeal from any such order, shall not provide grounds for termination of this Settlement Agreement or Settlement.

9.3 Within five business days of being notified by the Settlement Administrator of receipt of any such materials, Co-Lead Counsel shall deliver to Settling Defendants' Counsel copies of all (i) Requests for Exclusion received (including all information provided by the Persons or entities making the requests concerning their transactions and/or potential claims), (ii) information the Settlement Administrator possesses concerning the volume of trading within the scope of the Released Claims by Persons who have submitted timely Requests for Exclusion; and (iii) written revocations of Requests for Exclusion.

9.4 If, after Settling Defendants receive the list of the Requests for Exclusion and the information provided for in Paragraph 9.3, they decide to request some relief, the Settling Parties shall first meet and confer in good faith. If the Settling Parties are unable to reach agreement and Settling Defendants assert that the total Requests for Exclusion represent a material portion of transactions during the Settlement Class Period that would be eligible for compensation under the Settlement, and their exclusion would materially reduce the value of the settlement to Setting

Defendants (the "Materiality Threshold"), then Settling Defendants may present the issue of whether the total Requests for Exclusion meet the Materiality Threshold and, if so, the issue of the appropriate remedy to an independent and neutral mediator (the "Mediator") to be selected in good faith by mutual agreement of the Settling Parties and all other Defendants whose settlement agreements are submitted for approval simultaneously with this Settlement Agreement (the "Additional Settling Defendants"). The Mediator's determinations, which shall be made after a consolidated mediation involving the Settling Parties and each Additional Settling Defendant who seeks mediation under this Paragraph of its Settlement Agreement, shall be binding on the Settling Parties. For the sake of clarity, the Opt-out Entities shall not be considered by the mediator in determining a material amount of opt outs.

9.5 The Mediator shall have sole discretion to determine what, if any, reduction remedy is warranted due to a material impact on the value of the Settlement to Settling Defendants by the Requests for Exclusion. If the Mediator in his sole discretion selects some reduction as the appropriate remedy, he may not provide for a reduction in the Settlement Amount greater than a one-to-one ratio: that is, he may not reduce the Settlement Amount by more than the Persons who submitted timely Requests for Exclusion that were accepted by the Court would likely have been eligible to receive collectively (but for their exclusion) from the Settlement Fund (assuming all putative class members submitted claims). The Mediator is not required to grant any reduction or to impose a one-to-one ratio if he determines no such reduction is appropriate.

9.6 In the event the Mediator determines some reduction is appropriate, the amount of the reduction shall be paid to Settling Defendants from the Settlement Fund.

9.7 In the alternative to seeking a reduction, Settling Defendants may seek to terminate the Settlement if, upon application, the Mediator determines in his sole discretion that the reduction remedy is not adequate to preserve the essential benefits of the Settlement to Settling Defendants. Any application by Settling Defendants for termination relief under this Paragraph must be made in writing within fourteen (14) days following the receipt from Plaintiffs of the information provided for in Paragraph 9.3, or within seven (7) days of a determination on the reduction remedy by the Mediator, whichever is later. If termination relief is granted to Settling Defendants, any termination shall be effected solely in accordance with the termination provisions of this Agreement.

9.8 The Settling Parties and their respective counsel agree that they will make no effort to suggest, solicit, facilitate or otherwise encourage potential Settlement Class Members to exclude themselves from the Settlement.

9.9 The Settlement is non-recapture, *i.e.*, this is not a claims-made settlement. As of the Effective Date, Settling Defendants shall not have any right to the return of the Settlement Fund or any portion thereof for any reason. Upon the occurrence of all of the events referenced in Paragraph 9.1, any and all remaining interest or right of Settling Defendants, if any, in or to the Settlement Fund shall be absolutely and forever extinguished. If all of the conditions specified in Paragraph 9.1 are not met, then the Stipulation shall be canceled and terminated subject to Paragraph 9.2, unless Co-Lead Counsel and Settling Defendants' Counsel mutually agree in writing to proceed with the Settlement.

9.10 Except as provided herein, in the event the Stipulation shall terminate, or be canceled, or shall not become effective for any reason, within five (5) business days after written notification of such event is sent by Settling Defendants' Counsel or Co-Lead Counsel to the Escrow Agent, the Settlement Fund, together with any interest earned thereon (and, if applicable, re-payment of any Fee and Expense Award, less Taxes and Tax Expenses due, if any, with respect to such income, and less Class Notice and Administration Expenses and paid or payable from the Settlement Fund (not to exceed $3,500,000.00)) shall be refunded pursuant to written instructions from Settling Defendants' Counsel. At the written direction of Settling Defendants' Counsel, the Escrow Agent or its designee shall apply for any tax refund owed on the Settlement Fund and pay the proceeds, after deduction of any expenses incurred in connection with such application(s) for refund.

9.11 Except as otherwise provided herein, in the event that the Stipulation is not approved by the Court or the Settlement set forth in the Stipulation is terminated or fails to become effective for any reason, the Releasing Parties shall not forfeit or waive any factual or legal claim, defense, or contention in the Action. In such event, the terms and provisions of the Stipulation, with the exception of Paragraphs 8.3, 9.10, 11.4, and 11.5, shall have no further force and effect with respect to the Releasing Parties and shall not be used in this Action or in any other proceeding for any purpose, and any judgment or order entered by the Court in accordance with the terms of the Stipulation shall be treated as vacated, *nunc pro tunc*, and the Releasing Parties shall be deemed to return to their status as of the Execution Date. No order of the Court or modification or reversal on appeal of any such order of the Court concerning the Plan of Allocation, the Fee and Expense Award, or the Plaintiffs' Service Award shall constitute grounds for cancellation or termination of the Stipulation.

10. Cooperation

10.1 Settling Defendants agree to provide reasonable cooperation as set forth in this Section 10. All cooperation requested by Co-Lead Counsel shall be coordinated in such a manner so that all unnecessary duplication and expense is avoided. Settling Defendants shall not seek any contribution from Plaintiffs to any costs or expenses associated with the cooperation except as set forth herein.

10.2 Upon reasonable notice, to the extent reasonably requested by Co-Lead Counsel and permitted by law, and doing so would not constitute an undue burden or expense, Settling Defendants shall provide the reasonable cooperation described herein to the extent it is not prevented from doing so by any court order or any law, regulation, policy, or other rule of any regulatory agency or governmental body restricting disclosure of documents or information, or by any express objection from a regulatory agency or governmental body.

10.3 Notwithstanding any other provision in this Settlement Agreement, Settling Defendants may assert, where applicable, the work-product doctrine, the attorney-client privilege, the common interest privilege, the joint defense privilege, the bank regulatory or examination privilege, obligations under applicable data privacy laws or regulations, and/or any other applicable privilege or protection with respect to any documents, material, and/or information requested under this Settlement Agreement. None of the cooperation provisions are intended to, nor do they, waive any such privileges or protections. Settling Defendants' Counsel will meet with Co-Lead Counsel as is reasonably necessary to discuss any applicable domestic or foreign privilege or protection. Any disputes regarding privilege, protection or restriction that cannot be resolved by the parties shall be reserved for resolution by the Court. If any document protected by the work-product doctrine, the attorney-client privilege, the common interest privilege, the joint defense privilege, the bank regulatory or examination privilege, obligations under applicable data privacy laws or regulations, and/or any other applicable privilege or protection is accidentally or inadvertently produced, Co-Lead Counsel shall, upon notice from Settling Defendants, promptly cease reviewing the document and return or destroy the document within five (5) business days. Co-Lead Counsel shall also delete or destroy the portions of any other documents or work product which refer to or summarize the document. The production of any such document shall in no way be construed to have waived any privilege or protection attached to such document.

10.4 The confidentiality of any documents, materials and/or information provided to Plaintiffs pursuant to these confirmatory discovery provisions shall be covered by the protective order in effect in the Action. The parties expressly agree that any use of the documents, materials and/or information provided in connection with Settling Defendants' cooperation, including without limitation oral presentations, may be used directly or indirectly by Plaintiffs or Co-Lead Counsel solely in connection with the prosecution of the Action, but not for the institution or prosecution of any other action or proceeding against any Released Party for any other purpose whatsoever, including, but not limited to, actions or proceedings in jurisdictions outside the United States.

10.5 Subject to the foregoing Paragraphs, no later than the entry of the Preliminary Approval Order, Settling Defendants shall begin making reasonable preparations to provide Plaintiffs and Settlement Class Members the following ongoing cooperative efforts, and shall begin providing such cooperation as soon as practicable after entry of the Preliminary Approval Order, with completion a reasonable time thereafter.

(a) To the extent reasonably requested by Co-Lead Counsel and if permitted by law and/or contractual provisions, and doing so would not constitute an undue burden or expense, Settling Defendants shall produce reasonably available transaction data maintained by Settling Defendants from the Settlement Class Period as is necessary for purposes of facilitating allocation of class settlement funds, such as data for transactions after December 31, 2017, or data sufficient to permit allocation notwithstanding the anonymized nature of transactional data produced in discovery. In advance of the production, the parties will meet and confer on production format, the scope of the data to be produced, and the sharing of costs associated with any such production, if any. Settling Defendants agree to respond to Plaintiffs' reasonable questions concerning the structured data produced by Settling Defendants in accordance with this Paragraph.

(b) Upon reasonable notice, to the extent reasonably requested by Co-Lead Counsel and if permitted by law, and doing so would not constitute an undue burden or expense, Settling Defendants shall undertake reasonable efforts to make available for testimony at trial in this Action up to four (4) then-current employees of Settling Defendants and/or witnesses who were represented in deposition by Settling Defendants' Counsel (not to exceed a total of four (4) witnesses between the two categories).

(c) Upon reasonable notice, to the extent reasonably requested by Co-Lead Counsel, and if permitted by law and doing so would not constitute an undue burden or expense, Settling Defendants shall provide declarations or certifications to establish that, if believed to be true and accurate, the document, ESI, or data previously produced by Settling Defendants is genuine, authentic, and a record of a regularly conducted activity pursuant to Fed. R. Evid. 803(6), which Co-Lead Counsel identify as necessary for summary judgment and/or trial.

10.6 Settling Defendants agree to meet and confer in good faith regarding future requests from Co-Lead Counsel for additional available documents, transaction data, and other information beyond the items specified in Paragraph 10.5(a)-(c) above in the event that any such documents, data, and/or other information are necessary for Co-Lead Counsel to prosecute any remaining causes of action against non-Released Parties in this Action. Settling Defendants need not agree to requests that are unreasonable or unduly burdensome, and need not agree to requests for which Plaintiffs cannot demonstrate a substantial need that cannot be reasonably met through alternative means. In the event they cannot agree, such disputes shall be resolved by the Court.

10.7 In the event Co-Lead Counsel believes that Settling Defendants have failed to perform any of their cooperation obligations, the sole remedy shall be to seek declaratory relief or specific performance. Nothing in the Paragraph shall be construed to limit Settling Defendants' right to demonstrate that no breach has occurred or that Plaintiffs have suffered either no injury or no irreparable injury from any asserted breach of this Paragraph.

11. Miscellaneous Provisions

11.1 The Settling Parties: (a) acknowledge that it is their intent to consummate this Settlement; and (b) agree to cooperate to the extent reasonably necessary to effectuate and implement all terms and conditions of the Stipulation and to exercise their best efforts to accomplish the foregoing terms and conditions of the Stipulation expeditiously.

11.2 The Settling Parties intend this Settlement to be a final and complete resolution of all disputes asserted or which could be asserted by Plaintiffs and/or Settlement Class Members arising from the same factual predicate of the Action against the Released Credit Suisse Parties with respect to the Action and the Released Class Claims between them with respect to the Action and the Released Claims, or which could have been asserted with respect to the Action based on the same factual predicate. The Settlement and all negotiations, discussions, and proceedings leading up to and in connection herewith shall not be deemed to constitute a presumption, concession, or an admission by any Settling Party or any of the Released Parties of any fault, liability, or wrongdoing by it, or as to the merits of any claim or defense.

11.3 The Settling Parties and their counsel agree that they shall not assert any claims of any violation of Rule 11 of the Federal Rules of Civil Procedure relating to the prosecution, defense, or settlement of the Action, and the Judgment and Order of Dismissal shall contain a finding that all Settling Parties and their counsel complied with the requirements of Rule 11 with respect to the institution, prosecution, defense, and resolution of the Action. The Settling Parties agree that the Settlement Amount and the other terms of the Settlement were negotiated in good faith at arm's length by the Settling Parties and reflect a settlement that was reached voluntarily after consultation with competent legal counsel.

11.4 Neither the Stipulation nor the Settlement contained herein, nor any negotiations, discussions, proceedings, or acts performed or documents executed pursuant to or in furtherance of the Stipulation or the Settlement: (a) are or may be deemed to be or may be used as admissions of, or evidence of, the validity of any Released Claim, or of any wrongdoing or liability of Settling Defendants; or (b) are or may be deemed to be or may be used as admissions of, or evidence of, any fault or omission of Settling Defendants in any civil, criminal, or administrative proceeding in any court, administrative agency, or other tribunal. The Settling Parties agree to not make any public statements that assert or imply otherwise. The Released Credit Suisse Parties, Plaintiffs, Settlement Class Members, and Plaintiffs' Counsel may file the Stipulation and/or the Judgment and Order of Dismissal in any action that may be brought against them in order to support a defense or counterclaim based on principles of *res judicata*, collateral estoppel, release, good faith settlement, judgment bar or reduction, or any other theory of claim preclusion, issue preclusion or similar defense or counterclaim, or in connection with any proceeding to enforce the terms of this Stipulation.

11.5 Settling Parties stipulate solely for settlement purposes that the requirements of Fed. R. Civ. P. 23(a) and Fed. R. Civ. P. 23(b)(3) are satisfied. Settling Defendants retain all of their objections, arguments, and defenses with respect to class certification, and reserve all rights to contest class certification if the settlement does not receive the Court's Final approval, if the Court's approval is reversed or vacated on appeal, if the Settlement Agreement is terminated, or if the Settlement otherwise does not become Final. Settling Defendants enter into this Settlement

Agreement without any admission of liability or wrongdoing, which they expressly deny, and nothing in this Settlement Agreement shall limit the Settling Defendants' ability to fully defend against litigation brought by other class and non-class plaintiffs as to any matter relating to stock lending or to take any position in any other action.

11.6 All agreements made and orders entered during the course of the Action relating to the confidentiality of documents and information shall survive this Stipulation, pursuant to their terms. The Settling Parties recognize, as stated by the Court in ECF 150 at 40, that the Stipulated Protective Order does not bind the Court or any of its personnel, the Court can modify the Stipulated Protective Order at any time, the Court will retain jurisdiction over the terms and conditions of the Stipulated Protective Order only for the pendency of this litigation, and any party wishing to make redacted or sealed submissions shall comply with Rule 6(A) of the Court's Individual Rules and Practices in Civil Cases. Settling Defendants agree to respond in good faith to requests made pursuant to Sections 6 and 13 of the Stipulated Protective Order (ECF. 150), as well as other agreements made or orders entered relating to the confidentiality of documents and information.

11.7 All of the Exhibits to the Stipulation are material and integral parts hereof and are fully incorporated herein by this reference.

11.8 This Stipulation shall not be construed more strictly against one party than another merely by virtue of the fact that it, or any part of it, may have been prepared by counsel for one of the parties, it being recognized that it is the result of arm's-length negotiations between the Settling Parties and that all Settling Parties have contributed substantially and materially to the preparation of this Stipulation.

11.9 This Settlement Agreement and the Exhibits attached hereto shall constitute the entire agreement between Plaintiffs and Settling Defendants pertaining to the settlement of the Action against Settling Defendants. All terms of this Settlement Agreement are contractual and not mere recitals. The terms of this Settlement Agreement shall be binding upon each of the Settling Parties hereto, their heirs, executors, administrators, representatives, agents, attorneys, partners, successors, predecessors-in-interest, and assigns, and upon all other Persons claiming any interest in the subject matter hereto through any of the Settlement Parties including any Settlement Class Members.

11.10 The Stipulation may be amended or modified only by a written instrument signed by or on behalf of all Settling Parties or their respective successors-in-interest.

11.11 No waiver of any term or provision of this Settlement Agreement, or of any breach or default hereof or hereunder, shall be valid or effective unless in writing and signed by or on behalf of all Settling Parties or their respective successors-in-interest. No waiver of any term or provision of this Settlement Agreement, or of any breach or default hereof or hereunder, shall be construed as a waiver of the same or any other term or provision or of any previous or subsequent breach thereof.

11.12 The Stipulation and the Exhibits attached hereto constitute the entire agreement among the Settling Parties and no representations, warranties, or inducements have been made to any Settling Party concerning the Stipulation or its Exhibits other than the representations, warranties, and covenants contained and memorialized in such documents. Except as otherwise provided herein, each Settling Party shall bear its own costs.

11.13 Co-Lead Counsel, on behalf of the Settlement Class, are expressly authorized by Plaintiffs to take all appropriate action required or permitted to be taken by the Settlement Class pursuant to the Stipulation to effectuate its terms and also are expressly authorized to enter into any modifications or amendments to the Stipulation on behalf of the Settlement Class which they deem appropriate.

11.14 Each counsel or other Person executing the Stipulation or any of its Exhibits on behalf of any Settling Party hereby warrants that such Person has the full authority to do so.

11.15 All notices, requests, demands, claims, and other communications hereunder shall be in writing and shall be deemed duly given (a) when delivered personally to the recipient, (b) one (1) business day after being sent to the recipient by reputable overnight courier service (charges prepaid), or (c) five (5) business days after being mailed to the recipient by certified or registered mail, return receipt requested and postage prepaid, and addressed to the intended recipient as set forth below:

If to Plaintiffs or to Co-Lead Counsel:

Daniel L. Brockett
QUINN EMANUEL URQUHART & SULLIVAN, LLP
51 Madison Avenue, 22nd Floor
New York, NY 10010

and

Michael B. Eisenkraft
COHEN MILSTEIN SELLERS & TOLL PLLC
88 Pine Street, 14th Floor
New York, NY 10005

If to Settling Defendants or to Settling Defendants' Counsel:

David G. Januszewski
CAHILL GORDON & REINDEL LLP
32 Old Slip
New York, NY 10005

11.16 The Stipulation may be executed in one or more counterparts. All executed counterparts and each of them shall be deemed to be one and the same instrument. A complete set of executed counterparts shall be filed with the Court. Signatures sent by facsimile or by PDF via e-mail shall be deemed originals.

11.17 The Stipulation shall be binding upon, and inure to the benefit of, the heirs, successors, and assigns of the Settling Parties hereto.

11.18 The Court shall have exclusive jurisdiction with respect to implementation and enforcement of the terms of the Stipulation, and all Settling Parties, their respective counsel, and the Settlement Class Members hereto submit to the jurisdiction of the Court for purposes of implementing and enforcing the Settlement embodied in the Stipulation.

11.19 This Stipulation and the Exhibits hereto shall be considered to have been negotiated, executed, and delivered, and to be wholly performed, in the State of New York, and the rights and obligations of the parties to the Stipulation shall be construed and enforced in accordance with, and governed by, the internal, substantive laws of the State of New York, without giving effect to that State's choice-of-law principles.

11.20 Plaintiffs and Settling Defendants acknowledge that they have been represented by counsel and have made their own investigations of the matters covered by this Settlement Agreement to the extent they have deemed it necessary to do so. Therefore, Plaintiffs and Settling Defendants and their respective counsel agree that they will not seek to set aside any part of this Settlement Agreement on the grounds of mistake. Moreover, Plaintiffs and Settling Defendants and their respective counsel understand, agree, and expressly assume the risk that any fact may turn out hereinafter to be other than, different from, or contrary to the facts now known to them or believed by them to be true, and further agree that this Settlement Agreement shall be effective in all respects notwithstanding and shall not be subject to termination, modification, or rescission of by reason of any such difference in facts.

11.21 The Releasing Class Parties, on behalf of themselves, their successors, their assigns, and any person or entity claiming by, for, or through them, hereby agree that the maximum amount that Releasing Class Parties will enforce or collect from Defendants in the Action who are not Settling Defendants will not exceed, in the aggregate, (i) the amount of the monetary award associated with any final judgment obtained by Plaintiffs reduced by (ii) 13.5% of that amount. The protections conferred on the Defendants in the Action who are not Settling Defendants by the preceding sentence shall be cumulated with the protections conferred by any other provisions in Other Settlements (whether entered into before, after, or simultaneously with this Settlement), rather than being treated as duplicative or partially duplicative of such protections. The Defendants in the Action who are not Settling Defendants are intended third-party beneficiaries of the provisions set forth in this Paragraph. Notwithstanding any other term in this Settlement Agreement, Settling Defendants may provide the other Defendants in the Action with a copy of this Paragraph and any other portions of this Agreement that are necessary to enable a Defendant in the Action to understand and enforce this Paragraph.

11.22 Notwithstanding any other term in this Agreement, Releasing Class Parties state that they are agreeing to Paragraph 11.21 while reserving and without prejudice to their rights to challenge the legality or enforceability of any joint defense agreement or any other similar arrangement or agreement among one or more Defendants, except that any such challenge shall not be brought against Settling Defendants, shall not seek to undo or avoid this Agreement, and shall in no way alter the enforceability of this Agreement or Paragraph 11.21 in this Agreement. Settling Defendants take no position on Releasing Class Parties' purported reservation of rights in this Paragraph 11.22, but agree that Settling Defendants will not assert that Releasing Class Parties have waived any such rights by negotiating or agreeing to this Agreement.

11.23 IN WITNESS WHEREOF, the parties hereto have caused the Stipulation to be executed, by their duly authorized attorneys, dated January 20, 2022.

On Behalf of All Named Plaintiffs and the Settlement Class:

DATED: January 20, 2022

QUINN EMANUEL URQUHART & SULLIVAN, LLP

By: Dan Brockett

Daniel L. Brockett
Sascha N. Rand
Steig D. Olson
Deborah K. Brown
Daniel P. Mach
David LeRay
Maxwell P. Deabler-Meadows
51 Madison Avenue, 22nd Floor
New York, New York 10010
Telephone: (212) 849-7000
danbrockett@quinnemanuel.com
sascharand@quinnemnuel.com
steigolson@quinnemanuel.com
deborahbrown@quinnemanuel.com
danielmach@quinnemanuel.com
davidleray@quinnemanuel.com
maxmeadows@quinnemanuel.com

Jeremy D. Andersen (*pro hac vice*)
865 South Figueroa Street, 10th Floor
Los Angeles, California 90017
Telephone: (213) 443-3000
jeremyandersen@quinnemanuel.com

COHEN MILSTEIN SELLERS &TOLL PLLC

By:__________________

Michael B. Eisenkraft
Christopher J. Bateman
David O. Fisher
88 Pine Street, 14th Floor
New York, New York 10005
Telephone: (212) 838-7797

On Behalf of Settling Defendants:

CAHILL GORDON & REINDEL LLP

Jason M. Hall

David G. Januszewski
Herbert S. Washer
Elai Katz
Jason M. Hall
Margaret A. Barone
32 Old Slip
New York, New York 10005
Telephone: (212) 701-3000
djanuszewski@cahill.com
hwasher@cahill.com
ekatz@cahilll.com
jhall@cahill.com
mbarone@cahill.com

meisenkraft@cohenmilstein.com
cbateman@cohenmilstein.com
dfisher@cohenmilstein.com

Julie G. Reiser (*pro hac vice*)
Richard A. Koffman (*pro hac vice*)
Kit A. Pierson (*pro hac vice*)
Emmy L. Levens (*pro hac vice*)
Daniel McCuaig (*pro hac vice*)
Robert W. Cobbs (*pro hac vice*)
1100 New York Ave NW, Suite 500
Washington, DC 20005
Telephone: (202) 408-4600
jreiser@cohenmilstein.com
rkoffman@cohenmilstein.com
kpierson@cohenmilstein.com
elevens@cohenmilstein.com
dmccuaig@cohenmilstein.com
rcobbs@cohenmilstein.com

EXHIBIT A

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM; LOS ANGELES COUNTY EMPLOYEES RETIREMENT ASSOCIATION; ORANGE COUNTY EMPLOYEES RETIREMENT SYSTEM; SONOMA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION; and TORUS CAPITAL, LLC, on behalf of themselves and all others similarly situated,

Plaintiffs,

v.

MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED; MERRILL LYNCH L.P. HOLDINGS, INC.; MERRILL LYNCH PROFESSIONAL CLEARING CORP.; CREDIT SUISSE AG; CREDIT SUISSE SECURITIES (USA) LLC; CREDIT SUISSE FIRST BOSTON NEXT FUND, INC.; CREDIT SUISSE PRIME SECURITIES SERVICES (USA) LLC; GOLDMAN, SACHS & CO. LLC; GOLDMAN SACHS EXECUTION & CLEARING, L.P.; J.P. MORGAN SECURITIES LLC; J.P. MORGAN PRIME, INC.; J.P. MORGAN STRATEGIC SECURITIES LENDING CORP.; J.P. MORGAN CHASE BANK, N.A.; MORGAN STANLEY & CO. LLC; PRIME DEALER SERVICES CORP.; STRATEGIC INVESTMENTS I, INC.; UBS AG; UBS AMERICAS INC.; UBS SECURITIES LLC; EQUILEND LLC; EQUILEND EUROPE LIMITED; and EQUILEND HOLDINGS LLC,

Defendants.

No. 17-cv-6221 (KPF-SLC)

[PROPOSED] ORDER PRELIMINARILY APPROVING SETTLEMENT AGREEMENT, CERTIFYING THE SETTLEMENT CLASS, AND APPOINTING CLASS COUNSEL AND CLASS REPRESENTATIVES FOR THE SETTLEMENT CLASS

Hon. Katherine Polk Failla

WHEREAS, the Action[1] is pending before this Court;

WHEREAS, Plaintiffs[2] have entered into and executed a Stipulation and Agreement of Settlement (the "Settlement Agreement") with Credit Suisse Group AG, Credit Suisse AG; Credit Suisse Securities (USA) LLC; Credit Suisse First Boston Next Fund, Inc.; and Credit Suisse Prime Securities Services (USA) LLC (the "Settling Defendants," and together with Plaintiffs, the "Settling Parties"), which, if finally approved by the Court, will result in the settlement of all claims against Settling Defendants;

WHEREAS, in full and final settlement of the claims asserted against them in this Action, the Settling Defendants have agreed to pay an amount which totals $81,000,000 (the "Settlement Funds"), and to provide discovery that is likely to assist with the continued prosecution of the Action as set forth in the Settlement Agreement;

WHEREAS, Plaintiffs, having made an application, pursuant to Rule 23(e) of the Federal Rules of Civil Procedure, for an order preliminarily approving the Settlement Agreement, which sets forth the terms and conditions of the Settlement of the Action against the Settling Defendants and for dismissal of the Action against the Settling Defendants with prejudice upon the terms and conditions set forth in the Settlement Agreement;

WHEREAS, Plaintiffs have sought, and Settling Defendants have agreed not to object to, the certification of the Settlement Class (as defined below) solely for settlement purposes;

WHEREAS, Plaintiffs have requested that Co-Lead Counsel be appointed as settlement class counsel for the Settlement Class pursuant to Rule 23(g) of the Federal Rules of Civil Procedure;

---

[1] As defined in the Settlement Agreement, the "Action" means the above-captioned litigation pending in the United States District Court for the Southern District of New York.

[2] As defined in the Settlement Agreement, "Plaintiffs" are Iowa Public Employees' Retirement System; Los Angeles County Employees Retirement Association; Orange County Employees Retirement System; Sonoma County Employees' Retirement Association; and Torus Capital, LLC.

WHEREAS, Plaintiffs have requested that they be appointed class representatives of the Settlement Class;

WHEREAS, the Settling Parties have agreed to the entry of this [Proposed] Order Preliminarily Approving Settlement Agreement, Certifying the Settlement Class, and Appointing Class Counsel and Class Representatives for the Settlement Class (the "Order"); and

WHEREAS the Court has read and considered the Settlement Agreement and the exhibits annexed thereto and other documents submitted in connection with Plaintiffs' Motion for Preliminary Approval of the Settlement Agreement, and good cause appearing therefor;

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. All terms in initial capitalization used in this Order shall have the same meanings as set forth in the Settlement Agreement, unless otherwise defined herein.

I. PRELIMINARY APPROVAL OF SETTLEMENT AGREEMENT

2. Pursuant to Fed. R. Civ. P. 23(e)(1)(B), based on the showing that the Court will likely be able to approve the proposed settlement under Rule 23(e)(2) and certify the class for purposes of judgment on the proposed settlement, the Court hereby preliminarily approves the Settlement Agreement, subject to further consideration at the Fairness Hearing described below. The Court preliminarily finds that the settlement encompassed by the Settlement Agreement satisfies the requirements of Rules 23(c)(2) and 23(e) of the Federal Rules of Civil Procedure and due process so that an appropriate notice of the Settlement Agreement should be given, subject to the Court's approval of a notice plan as provided in this Order.

II. PRELIMINARY CERTIFICATION OF SETTLEMENT CLASS

3. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, the Court preliminarily certifies, solely for settlement purposes, a Settlement Class defined as follows:

> all Persons or entities who, directly or through an agent, entered into Stock Loan Transactions[3] with the Prime Broker Defendants,[4] direct or indirect parents,

[3] means any transaction, including any transaction facilitated by a prime broker or agent lender, in which an owner of a stock temporarily lends the stock in exchange for collateral or in which a borrower of a stock provides collateral to temporarily borrow a security, and in which the stock

> subsidiaries, or divisions of the Prime Broker Defendants, or the Released Credit Suisse Parties,[5] in the United States from January 7, 2009 through the Execution Date[6] (the "Settlement Class Period"), inclusive. Excluded from the Settlement Class are Defendants and their employees, affiliates, parents, subsidiaries, and co-conspirators, should any exist, whether or not named in the Amended Complaint, entities which previously requested exclusion from any Class in this Action,[7] the United States Government, and all of the Released Credit Suisse Parties, provided, however, that Investment Vehicles[8] shall not be excluded from the definition of the Settlement Class.

4. Solely for purposes of the settlement, the Court preliminarily finds that the requirements of Federal Rules of Civil Procedure 23(a) and 23(b)(3) have been satisfied, as follows: (a) the members of the Settlement Class are so numerous that joinder of all members of the Settlement Class is impracticable; (b) questions of law and fact common to the Settlement Class predominate over any individual questions; (c) the claims of Plaintiffs are typical of the

---

is ultimately returned to the lender at a later date, at which time the lender returns the collateral to the borrower. "Stock Loan Transactions" do not include non-equity securities lending or stock repurchase (repo) transactions.

[4] "Prime Broker Defendants" means Settling Defendants and Bank of America Merrill Lynch, Goldman Sachs, Morgan Stanley, JPMorgan, and UBS, including affiliates named in the Amended Complaint (ECF No. 73).

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

[6] The "Execution Date" is January 20, 2022.

[7] These entities are Citadel LLC, Two Sigma Investments, PDT Partners, Renaissance Technologies LLC, TGS Management, Voloridge Investment Management, and the D.E. Shaw Group and their corporate parents, subsidiaries, and wholly owned affiliates.

[8] "Investment Vehicles" means any investment company or pooled investment fund, including, but not limited to: (i) mutual fund families, exchange-traded funds, fund of funds and hedge funds, in which a Defendant has or may have a direct or indirect interest, or as to which its affiliates may act as an investment advisor, but of which a Defendant or its respective affiliates is not a majority owner or does not hold a majority beneficial interest, and (ii) any Employee Benefit Plan as to which a Defendant or its affiliates acts as an investment advisor or otherwise may be a fiduciary.

claims of the Settlement Class; (d) Plaintiffs and Co-Lead Counsel have fairly and adequately represented and protected the interests of the Settlement Class; and (e) a class action is superior to other available methods for the fair and efficient adjudication of the controversy, considering (i) the interests of members of the Settlement Class in individually controlling the prosecution of separate actions; (ii) the extent and nature of any litigation concerning the controversy already begun by members of the Settlement Class; (iii) the desirability or undesirability of concentrating the litigation of these claims in this particular forum; and (iv) the likely difficulties in managing this Action as a class action.

5. If the Effective Date does not occur with respect to the Settlement Agreement because of the failure of a condition that affects such Settlement Agreement, this conditional certification of the Settlement Class shall be deemed null and void as to the Settling Parties subject to such Settlement Agreement without the need for further action by the Court or any of the Settling Parties. In such circumstances, each of the Settling Parties shall retain their rights to seek or to object to certification of this litigation as a class action under Rule 23 of the Federal Rules of Civil Procedure, or under any other state or federal rule, statute, law, or provision thereof, and to contest and appeal any grant or denial of certification in this litigation or in any other litigation on any other grounds.

III. CLASS COUNSEL AND CLASS REPRESENTATIVES

6. The law firms of Quinn Emanuel Urquhart & Sullivan, LLP, and Cohen Milstein Sellers & Toll PLLC, are preliminarily appointed, solely for settlement purposes, as Co-Lead Counsel for the Settlement Class.

7. Plaintiffs are preliminarily appointed, solely for settlement purposes, as class representatives for the Settlement Class.

IV. PLAN OF DISTRIBUTION, NOTICE, AND FAIRNESS HEARING

8. At a later practicable date, Plaintiffs shall submit for the Court's approval a proposed Plan of Allocation of the Settlement Fund (and including all interest and income earned thereon after being transferred to the Escrow Account).

9. At a later practicable date, Plaintiffs shall submit for the Court's approval a proposed notice plan for purposes of advising members of the Settlement Class, among other things, of their right to object to the Settlement Agreement, their right to exclude themselves from the Settlement Class, the procedure for submitting a request for exclusion, the time, date, and location of the Fairness Hearing to be scheduled by the Court, and their right to appear at the Fairness Hearing.

10. At or after the Fairness Hearing, the Court shall determine whether the Settlement Agreement, the proposed Plan of Distribution, any application for service awards, and any application for attorneys' fees and/or expenses for Plaintiffs' Counsel should be finally approved.

V. OTHER PROVISIONS

11. The notice requirements of the Class Action Fairness Act, 28 U.S.C. §1715, have been met.

12. The Court approves Plaintiffs' designation of ________________ as the Settlement Administrator. Absent further order of the Court, the Settlement Administrator shall have such duties and responsibilities as are set forth in the Settlement Agreement.

13. The Court approves Plaintiffs' designation of ________________ as Escrow Agent. Absent further order of the Court, the Escrow Agent shall have such duties and responsibilities in such capacity as are set forth in the Settlement Agreement.

14. The Court approves the establishment of escrow accounts under the Settlement Agreement as Qualified Settlement Funds ("QSFs") pursuant to Internal Revenue Code §468B and the Treasury Regulations promulgated thereunder, and retains continuing jurisdiction as to any issue that may arise in connection with the formulation or administration of the QSFs. All funds held by the Escrow Agent shall be deemed and considered to be in *custodia legis*, and shall remain subject to the jurisdiction of the Court, until such time as such funds shall be distributed pursuant to the Settlement Agreement and further order(s) of the Court.

15. All reasonable expenses incurred in identifying and notifying potential Settlement Class Members as well as administering the Settlement Fund shall be paid, as set forth herein and in Paragraph 3.10 of the Settlement Agreement, up to the sum of $2,500,000. In the event the Court does not approve the Settlement Agreement, or if the Settlement Agreement otherwise fails to become effective, neither Plaintiffs nor any of their counsel shall have any obligation to repay any amounts incurred or disbursed pursuant to Paragraph 3.10 of the Settlement Agreement.

16. In the event that the Settlement Agreement is terminated, is vacated, is not approved, or the Effective Date fails to occur for any reason, then the parties to such Settlement Agreement shall be deemed to have reverted to their respective status in the Action as of the Execution Date, and, except as otherwise expressly provided herein, such parties shall proceed in all respects as if such Settlement Agreement and any related orders had not been entered, and such Settlement Agreement (including any amendment(s) thereto) and this Order shall be null and void, of no further force or effect, and without prejudice to any such Settling Parties, and may not be introduced as evidence or referred to in any actions or proceedings by any Person; provided, however, that in the event of termination of a Settlement Agreement, Paragraphs 8.3, 9.10, 9.11, 11.4, and 11.5 of such Settlement Agreement shall nonetheless survive and continue to be of effect and have binding force. Any portion of the Settlement Fund previously paid by or on behalf of the Settling Defendants, together with any interest earned thereon (and, if applicable, re-payment of any Fee and Expense Award referred to in Paragraph 8.3 of such Settlement Agreement), less Taxes due, if any, with respect to such income, and less costs of administration and notice actually incurred and paid or payable from the Settlement Fund (not to exceed the sum of $2,500,000 without the prior approval of the Court) shall be returned to such Settling Defendants within five (5) business days after written notification of such event is sent by counsel for the Settling Defendants or Co-Lead Counsel to the Escrow Agent. At the request of such Settling Defendants, the Escrow Agent shall apply for any tax refund owed on the Settlement Fund and pay the proceeds to such Settling Defendants.

17. The Settling Defendants have denied wrongdoing or liability in connection with the allegations in the Action. As such, nothing in the Settlement Agreement constitutes an admission by the Settling Defendants as to the merits of the allegations made in the Action, the validity of any defenses that could be or have been asserted, or the appropriateness of certification of any class other than the Class under Fed. R. Civ. P. 23 for purposes of settlement only.

18. All proceedings in the Action with respect to the Settling Defendants are stayed until further order of the Court. Such stay does not apply, however, to the extent actions are necessary to implement the terms of the Settlement Agreement or comply with its terms. Pending final determination of whether the Settlement Agreement should be approved, neither Plaintiffs nor any Settlement Class Member shall commence or prosecute any action alleging any of the Released Class Claims against the Settling Defendants.

19. All Class Members shall be bound by all determinations and judgments in the Action concerning the settlements set forth in the Settlement Agreement, whether favorable or unfavorable to the Settlement Class.

20. Any member of the Settlement Class may enter an appearance in the Action, at his, her, or its own expense, individually or through counsel of his, her, or its own choice. Any member of the Settlement Class who does not enter an appearance will be represented by Co-Lead Counsel.

IT IS SO ORDERED.

DATED: ________________________

____
HON. KATHERINE P. FAILLA
UNITED STATES DISTRICT JUDGE

EXHIBIT B

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM; LOS ANGELES COUNTY EMPLOYEES RETIREMENT ASSOCIATION; ORANGE COUNTY EMPLOYEES RETIREMENT SYSTEM; SONOMA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION; and TORUS CAPITAL, LLC, on behalf of themselves and all others similarly situated,	No. 17-cv-6221 (KPF-SLC)
Plaintiffs,	
v.	[PROPOSED] FINAL JUDGMENT AND ORDER OF DISMISSAL
MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED; MERRILL LYNCH L.P. HOLDINGS, INC.; MERRILL LYNCH PROFESSIONAL CLEARING CORP.; CREDIT SUISSE AG; CREDIT SUISSE SECURITIES (USA) LLC; CREDIT SUISSE FIRST BOSTON NEXT FUND, INC.; CREDIT SUISSE PRIME SECURITIES SERVICES (USA) LLC; GOLDMAN, SACHS & CO. LLC; GOLDMAN SACHS EXECUTION & CLEARING, L.P.; J.P. MORGAN SECURITIES LLC; J.P. MORGAN PRIME, INC.; J.P. MORGAN STRATEGIC SECURITIES LENDING CORP.; J.P. MORGAN CHASE BANK, N.A.; MORGAN STANLEY & CO. LLC; PRIME DEALER SERVICES CORP.; STRATEGIC INVESTMENTS I, INC.; UBS AG; UBS AMERICAS INC.; UBS SECURITIES LLC; EQUILEND LLC; EQUILEND EUROPE LIMITED; and EQUILEND HOLDINGS LLC,	Hon. Katherine Polk Failla
Defendants.	

This matter came before the Court for hearing pursuant to Plaintiffs'[1] application for final approval of the settlement set forth in the Stipulation and Agreement of Settlement with Credit Suisse Group AG; Credit Suisse AG; Credit Suisse Securities (USA) LLC; Credit Suisse First Boston Next Fund, Inc.; and Credit Suisse Prime Securities Services (USA) LLC , dated January 20, 2022 (the "Settlement Agreement"). The Court has considered all papers filed and proceedings held herein and is fully informed of these matters. For good cause shown, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that:

1. This Final Judgment and Order of Dismissal incorporates by reference the definitions in the Settlement Agreement, and all capitalized terms used, but not defined, herein shall have the same meanings as in the Settlement Agreement.

2. This Court has jurisdiction over the subject matter of the Action and over all parties to the Action, including all Settlement Class Members.

3. The notice provisions of the Class Action Fairness Act, 28 U.S.C. §1715, have been satisfied.

4. Based on the record before the Court, including the Preliminary Approval Order, the submissions in support of the settlement between Plaintiffs, for themselves individually and on behalf of each Settlement Class Member in the Action, and Credit Suisse Group AG, Credit Suisse AG; Credit Suisse Securities (USA) LLC; Credit Suisse First Boston Next Fund, Inc.; Credit Suisse Prime Securities Services (USA) LLC ("Settling Defendants" and together with Plaintiffs, the "Settling Parties"), and any objections and responses thereto, pursuant Rules 23(a) and 23(b)(3) of the Federal Rules of Civil Procedure the Court hereby certifies solely for settlement purposes the following Settlement Class:

all Persons or entities who, directly or through an agent, entered into Stock Loan

[1] Plaintiffs are Iowa Public Employees' Retirement System; Los Angeles County Employees Retirement Association; Orange County Employees Retirement System; Sonoma County Employees' Retirement Association; and Torus Capital, LLC.

> Transactions[2] with the Prime Broker Defendants,[3] direct or indirect parents, subsidiaries, or divisions of the Prime Broker Defendants, or the Released Credit Suisse Parties,[4] in the United States from January 7, 2009 through the Execution Date[5] (the "Settlement Class Period"), inclusive. Excluded from the Settlement Class are Defendants and their employees, affiliates, parents, subsidiaries, and co-conspirators, should any exist, whether or not named in the Amended Complaint, entities which previously requested exclusion from any Class in this Action,[6] the United States Government, and all of the Released Credit Suisse Parties, provided, however, that Investment Vehicles[7] shall not be excluded from the definition of the Settlement Class.

5. The requirements of Rules 23(a) and 23(b)(3) of the Federal Rules of Civil Procedure have been satisfied, solely for settlement purposes, as follows: (a) the members of the Settlement Class are so numerous that joinder of all members of the Settlement Class in the

[2] "Stock Loan Transactions" means any transaction, including any transaction facilitated by a prime broker or agent lender, in which an owner of a stock temporarily lends the stock in exchange for collateral or in which a borrower of a stock provides collateral to temporarily borrow a security, and in which the stock is ultimately returned to the lender at a later date, at which time the lender returns the collateral to the borrower. "Stock Loan Transactions" do not include non-equity securities lending or stock repurchase (repo) transactions.

[3] "Prime Broker Defendants" means Settling Defendants and Bank of America Merrill Lynch, Goldman Sachs, Morgan Stanley, JPMorgan, and UBS, including affiliates named in the Amended Complaint (ECF No. 73).

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

[5] The "Execution Date" is January 20, 2022.

[6] These entities are Citadel LLC, Two Sigma Investments, PDT Partners, Renaissance Technologies LLC, TGS Management, Voloridge Investment Management, and the D.E. Shaw Group and their corporate parents, subsidiaries, and wholly owned affiliates.

[7] "Investment Vehicles" means any investment company or pooled investment fund, including, but not limited to: (i) mutual fund families, exchange-traded funds, fund of funds and hedge funds, in which a Defendant has or may have a direct or indirect interest, or as to which its affiliates may act as an investment advisor, but of which a Defendant or its respective affiliates is not a majority owner or does not hold a majority beneficial interest, and (ii) any Employee Benefit Plan as to which a Defendant or its affiliates acts as an investment advisor or otherwise may be a fiduciary.

Action is impracticable; (b) questions of law and fact common to the Settlement Class predominate over any individual questions; (c) the claims of Plaintiffs are typical of the claims of the Settlement Class; (d) Plaintiffs and Co-Lead Counsel have fairly and adequately represented and protected the interests of the Settlement Class; and (e) a class action is superior to other available methods for the fair and efficient adjudication of the controversy, considering (i) the interests of members of the Settlement Class in individually controlling the prosecution of separate actions; (ii) the extent and nature of any litigation concerning the controversy already begun by members of the Settlement Class; (iii) the desirability or undesirability of concentrating the litigation of these claims in this particular forum; and (iv) the likely difficulties in managing this Action as a class action.

6. The law firms of Quinn Emanuel Urquhart & Sullivan, LLP, and Cohen Milstein Sellers & Toll PLLC, are appointed, solely for settlement purposes, as Co-Lead Counsel for the Settlement Class.

7. Plaintiffs Iowa Public Employees' Retirement System; Los Angeles County Employees Retirement Association; Orange County Employees Retirement System; Sonoma County Employees' Retirement Association; and Torus Capital, LLC are appointed, solely for settlement purposes, as class representatives for the Settlement Class.

8. Pursuant to Rule 23(e) of the Federal Rules of Civil Procedure, the Court grants final approval of the Settlement set forth in the Settlement Agreement on the basis that the settlement is fair, reasonable, and adequate as to, and in the best interests of, all Settlement Class Members, and is in compliance with all applicable requirements of the Federal Rules of Civil Procedure. In reaching this conclusion, the Court considered the factors set forth in *City of Detroit v. Grinnell Corp.*, 495 F.2d 448, 463 (2d Cir. 1974), *abrogated on other grounds by Goldberger v. Integrated Res., Inc.*, 209 F.3d 43 (2d Cir. 2000). Moreover, the Court concludes that:

a. The Settlement set forth in the Settlement Agreement was fairly and honestly negotiated by counsel with significant experience litigating antitrust class actions and other complex litigation and is the result of vigorous arm's-length negotiations undertaken in good faith;

b. This Action involves numerous contested and serious questions of law and fact, such that the value of an immediate monetary recovery outweighs the mere possibility of future relief after protracted and expensive litigation;

c. Success in complex cases such as this one is inherently uncertain, and there is no guarantee that continued litigation would yield a superior result; and

d. The Settlement Class Members' reaction to the Settlement set forth in the Settlement Agreement is entitled to great weight.

9. Except as to any individual claim of those Persons (identified in Exhibit 1 hereto) who have validly and timely requested exclusion from the Settlement Class ("Opt-Outs"), the Action and all claims contained therein, as well as all of the Released Class Claims, against Settling Defendants and Released Credit Suisse Parties by the Plaintiffs and Releasing Class Parties are dismissed with prejudice. The Settling Parties are to bear their own costs, except as otherwise provided in the Settlement Agreement and the orders of this Court.

10. The Opt-Outs identified in Exhibit 1 hereto have timely and validly requested exclusion from the Settlement Class and are excluded from the Settlement Class for all purposes, are not bound by this Final Judgment and Order of Dismissal, and may not make any claim or receive any benefit from the Settlement Agreement or any other settlement that class members were notified were being jointly administered together in this way from which members of Settlement Class are entitled to recover.

11. Upon the Effective Date: (i) Plaintiffs and each of the Settlement Class Members shall be deemed to have, and by operation of the Judgment shall have, fully, finally, and forever released, relinquished, and discharged against the Released Credit Suisse Parties (whether or not such Settlement Class Member executes and delivers a Proof of Claim and Release form) any

and all Released Class Claims[8] (including, without limitation, Unknown Claims); and (ii) Plaintiffs and each of the Settlement Class Members and anyone claiming through or on behalf of them, shall be permanently barred and enjoined from the commencement, assertion, institution, maintenance or prosecution of any of the Released Class Claims against any Released Credit Suisse Parties in any action or other proceeding in any court of law or equity, arbitration tribunal, administrative forum, or forum of any kind. This Final Judgment and Order of Dismissal shall not affect in any way the right of Plaintiffs or Releasing Class Parties to pursue claims, if any, outside the scope of the Released Class Claims. Claims to enforce the terms of the Settlement Agreement are not released.

12. Upon the Effective Date, each of the Releasing Credit Suisse Parties: (i) shall be deemed to have, and by operation of the Judgment and Order of Dismissal shall have, fully, finally, and forever released, relinquished, and discharged Plaintiffs, each and all of the Settlement Class Members, and Plaintiffs' Counsel from any and all Released Defendants' Claims[9] (including, without limitation, Unknown Claims); and (ii) shall be permanently barred and enjoined from the commencement, assertion, institution, maintenance or prosecution against

[8] "Released Class Claims" shall be any and all manner of claims, including Unknown Claims, causes of action, cross-claims, counter-claims, charges, liabilities, demands, judgments, suits, obligations, debts, setoffs, rights of recovery, or liabilities for any obligations of any kind whatsoever (however denominated), whether class or individual, in law or equity or arising under constitution, statute, regulation, ordinance, contract, or otherwise in nature, for fees, costs, penalties, fines, debts, expenses, attorneys' fees, or damages, whenever incurred, and liabilities of any nature whatsoever (including joint and several), known or unknown, suspected or unsuspected, asserted or unasserted, which the Releasing Class Parties ever had, now have, or hereafter can, shall or may have, individually, representatively, derivatively, or in any other capacity, against the Released Credit Suisse Parties, arising from or related in any way to the conduct alleged or that could have been alleged in this Action that also arise from or relate to the factual predicate of the Action, to the fullest extent allowed by law, from the beginning of time through the Execution Date. The Released Class Claims do not include: (i) any claims to enforce the Settlement; and (ii) any claims of a Person that submits a timely Request for Exclusion in connection with the Notice whose request is accepted by the Court.

[9] "Released Defendants' Claims" means any and all manner of claims, including Unknown Claims, that arise out of or relate in any way to the Releasing Class Parties' or Co-Lead Counsel's institution, prosecution, or settlement of the Released Class Claims, except for claims relating to the enforcement of the Settlement.

any counsel for Plaintiffs and Settlement Class Members in any action or other proceeding in any court of law or equity, arbitration tribunal, administrative forum, or forum of any kind, asserting any of the Released Defendants' Claims. This Final Judgment and Order of Dismissal shall not affect in any way the right of Settling Defendants or Releasing Credit Suisse Parties to pursue claims, if any, outside the scope of the Released Defendants' Claims. Claims to enforce the terms of the Settlement Agreement are not released.

13. Upon the Effective Date, any claims for contribution, indemnification, or similar claims from other Defendants in the Action against any of the Released Credit Suisse Parties, arising out of or related to the Released Class Claims, are barred in the manner and to the fullest extent permitted under the law of New York or any other jurisdiction that might be construed or deemed to apply to any claims for contribution, indemnification or similar claims against any of the Released Credit Suisse Parties.

14. All rights of any Settlement Class Member against (i) any of the other Defendants currently named in the Action; (ii) any other Person formerly named in the Action; or (iii) any alleged co-conspirators or any other Person subsequently added or joined in the Action, other than Settling Defendants and Released Credit Suisse Parties with respect to Released Class Claims, are specifically reserved by Plaintiffs and the Settlement Class Members.

15. The mailing and distribution of the Notice to all members of the Settlement Class who could be identified through reasonable effort and the publication of the Summary Notice satisfy the requirements of Rule 23 of the Federal Rules of Civil Procedure and due process, constitute the best notice practicable under the circumstances, and constitute due and sufficient notice to all Persons entitled to notice.

16. The Plan of Allocation submitted by Plaintiffs is approved as fair, reasonable, and adequate.

17. Neither the Settlement Agreement nor the Settlement contained therein, nor any act performed or document executed pursuant to or in furtherance of the Settlement Agreement or the Settlement: (a) is or may be deemed to be or may be used as an admission or evidence of

the validity of any Released Class Claim, or of any wrongdoing or liability of the Released Credit Suisse Parties; or (b) is or may be deemed to be or may be used as an admission of, or evidence of, any fault or omission of any of the Released Credit Suisse Parties in any civil, criminal, or administrative proceeding in any court, administrative agency, or other tribunal. The Settlement Agreement may be filed in an action to enforce or interpret the terms of the Settlement Agreement, the Settlement contained therein, and any other documents executed in connection with the performance of the Settlement embodied therein. The Released Credit Suisse Parties may file the Settlement Agreement and/or this Final Judgment and Order of Dismissal in any action that may be brought against them in order to support a defense or counterclaim based on the principles of *res judicata*, collateral estoppel, full faith and credit, release, good faith settlement, judgment bar, or reduction or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim.

18. Without affecting the finality of this Final Judgment and Order of Dismissal in any way, this Court retains continuing and exclusive jurisdiction over: (a) implementation of the Settlement set forth in the Settlement Agreement; (b) any award, distribution, or disposition of the Settlement Fund, including interest earned thereon; (c) hearing and determining applications for attorneys' fees, costs, expenses including expert fees, and incentive awards; and (d) all Settling Parties, Released Parties, and Releasing Parties for the purpose of construing, enforcing, and administering the Settlement Agreement.

19. In the event that the Settlement does not become effective in accordance with the terms of the Settlement Agreement, then this Final Order and Judgment of Dismissal shall be rendered null and void and shall be vacated. In such event, all orders entered and releases delivered in connection herewith shall be null and void, and the Settling Parties shall be deemed to have reverted to their respective status in the Action as of the Execution Date, and, except as otherwise expressly provided herein, the Settling Parties shall proceed in all respects as if the Settlement Agreement and any related orders had not been entered; provided, however, that in

the event of termination of the Settlement, Paragraphs 8.3, 9.10, 9.11, and 11.3 of the Settlement Agreement shall nonetheless survive and continue to be of effect and have binding force.

20. The Settling Parties are directed to consummate the Settlement according to the terms of the Settlement Agreement. Without further Court order, the Settling Parties may agree to reasonable extensions of time to carry out any of the provisions of the Settlement Agreement.

21. There is no just reason for delay in the entry of this Final Judgment and Order of Dismissal. The Clerk of the Court is directed to enter this Final Judgment and Order of Dismissal pursuant to Rule 54(b) of the Federal Rules of Civil Procedure immediately.

IT IS SO ORDERED.

DATED: ___________________

____
HON. KATHERINE P. FAILLA
UNITED STATES DISTRICT JUDGE

EXHIBIT 2

quinn emanuel trial lawyers
quinn emanuel urquhart & sullivan, llp

The Firm

We are a 875+ lawyer business litigation firm with offices in Los Angeles, New York, San Francisco, Silicon Valley, Chicago, Washington, D.C., Houston, Seattle, Boston, Salt Lake City, Tokyo, London, Mannheim, Hamburg, Paris, Hong Kong, Munich, Sydney, Brussels, Zurich, Shanghai, Perth, Stuttgart, Austin, Neuilly-la Defense, Atlanta and Miami. We aggressively litigate a wide variety of business disputes for Fortune 500 companies as well as smaller companies. We do not simply "handle" cases for years before settling them on the courthouse steps. Our goal is to seize the initiative and resolve them quickly, because it is in our clients' interests to do so. If a case cannot be resolved short of trial, we have the experienced trial lawyers who can try it. Our business is winning cases—and we do.

Our Lawyers.

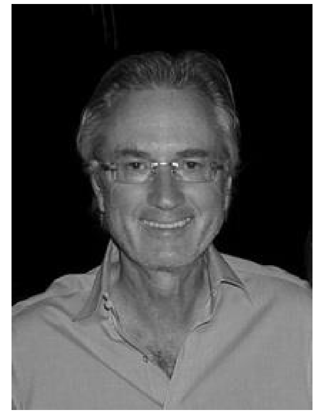
Attorneys at our firm have tried over 2,500 cases and won 86%. When we represent defendants, our trial experience gets us better settlements or defense verdicts. When representing plaintiffs, our lawyers have won over $70 billion in judgments and settlements. We have also obtained seven 9-figure jury verdicts, four 10-figure jury verdicts, fifty-one 9-figure settlements, and nineteen 10-figure settlements.

Our attorneys include top graduates from Harvard, Yale, Stanford, Chicago, Michigan, Columbia and other distinguished schools. At last count, 221 of our attorneys (or 36%) were law review editors in law school and/or clerked for judges; twenty-four have taught law; and many have been or are general counsel for corporations. Over 25 of our attorneys are former Assistant United States Attorneys, including the former Los Angeles United States Attorney. Three of our partners have worked in the White House: two for Democrats, one for Republicans.

Trial Lawyers, Not Paper Litigators; Why Trial Lawyers Are Also Best for Settlement.

Trying cases is a key element of our firm culture. Trials are zero sum games – they are no place for beginners. We try more major business cases than any other law firm. At least once each year, we are in a trial or an arbitration pursuing or defending against a claim for over $1 billion in damages. Many of our partners are very highly experienced trial lawyers, having tried dozens of cases to verdict. Seven have taught trial advocacy. We do not believe the same level of jury trial experience can be found at any other business law firm. Our trial experience is an obvious advantage in the courtroom, and is important both for the relatively rare case which must be tried and for the cases which settle. Plaintiffs' lawyers know we will not hesitate to go to trial and know what we can do in a courtroom. Our well-known ability to try cases diminishes the lawsuit "hold up" factor and causes adversaries to re-think their demands. We believe that our firm can get better settlements because of our credibility as trial lawyers.

quinn emanuel trial lawyers
quinn emanuel urquhart & sullivan, llp



Daniel L. Brockett

Partner
New York Office
Direct Tel: -+1 212-849-7345
danbrockett@quinnemanuel.com

Biography

Dan Brockett, Chair of Quinn Emanuel's Financial Institution Litigation practice, is a Chambers-ranked lawyer who is consistently viewed as one of the best trial lawyers in the Country. In 2018, he was ranked by Benchmark Litigation as one of the **Top 100 Trial Lawyers in America.** He has been called an "elite trial strategist" by his peers and 'a very good lawyer who is always willing to roll the dice." He has been consistently ranked among the top litigators by multiple leading publications. *Law360*, for example, recently recognized Mr. Brockett as a "Competition MVP," and in 2016 the *National Law Journal* named him one of its "Litigation Trailblazers." In 2021, he was named one of *LawDragon's* 500 Leading Plaintiff Financial Lawyers. He has achieved national prominence primarily for his work in the areas of securities, antitrust, commodities, and structured finance and derivatives litigation. Known as a cut-to-the-chase litigator with significant jury trial experience, Mr. Brockett has recovered billions for major institutional clients in federal securities, antitrust, and other suits against major Wall Street banks and other defendants. He is particularly known for his work in the plaintiff antitrust, securities, and commodities space, and was recently chosen by judges in the SDNY as co-lead counsel in an array of precedent-setting cases, including the credit default swaps antitrust case; the gold antitrust and commodity manipulation case; the ISDAfix interest rate benchmark case; the US Treasuries antitrust litigation; and the SSA bonds antitrust litigation. Mr. Brockett has served as lead trial counsel in over 20 major bench and jury trials and arbitrations, winning 90 percent of them. He has recovered billions of dollars in verdicts, awards and settlements for his clients during his career, including approximately $1.9 billion in a recent, highly-publicized settlement of the credit default swap antitrust litigation, in which Mr. Brockett acted as co-lead counsel for the plaintiff class, and the recently-announced $508 million partial settlement in the ISDAfix case, in which Mr. Brockett also represents a class of sophisticated investors. His work has won him extensive media attention and he has been interviewed by and featured in a variety of legal media publications, including *CNBC*, *Reuters*, *Bloomberg*, *Risk Magazine*, and the *American Lawyer*.

Representative Clients

- Koch Industries, Inc. (Invista)
- Allstate Corporation
- Prudential Financial, Inc.
- Susquehanna Group
- British Petroleum
- Chohung Bank
- K. Hovnanian Homes
- Mammoth Lakes Land Acquisition LLC
- UAL Corp.
- USX Corporation

Notable Representations

- As court appointed lead counsel of the plaintiff class in the **Credit Default Swaps Antitrust Litigation**, in the Southern District of New York, Mr. Brockett and his team negotiated one of the largest antitrust class action settlements in history ($1.9 billion). The case alleged that twelve of the world's largest banks colluded to block the emergence of exchange trading venues for credit default swaps. Two separate government agencies—the Department of Justice and the European Commission—investigated the alleged conduct for years and remain empty-handed to this day. No bank has ever been indicted for the alleged conduct, and defendants have not paid a single dollar in fines to any regulator. This was not a case in which Mr. Brockett and his team had the ability to piggyback on government regulators. In supporting the settlement in a sworn and filed Declaration, the Honorable Daniel Weinstein (Ret.), who served as Mediator in the case, remarked: "I would go so far as to say that, in 30-plus years of mediating high-stakes disputes, this was one of the finest examples of efficient and effective lawyering by plaintiffs' counsel that I have ever witnessed. I have rarely, if ever, observed a Plaintiff in a case of this complexity and size, achieve a result of this magnitude with the speed that Plaintiffs achieved here."
- Acting as court-appointed lead counsel in **Commodity Exchange, Inc., Gold futures and Options Trading Litigation** (S.D.N.Y.), a class action concerning price fixing and manipulation of worldwide gold prices. Mr. Brockett and his team employed pioneering claim development work to prepare and file a consolidated class action complaint alleging that multiple banks colluded for years to

manipulate the "London Gold Fixing," a key benchmark for gold prices. Many plaintiffs' firms later tried to copy our work—then sought to control the cases for themselves. Over such challenges, we were appointed co-lead counsel in July 2014. The Court found that Quinn Emanuel had the "more creative approach," the strongest practice in New York, and was "best able to represent the putative class." The complaint is currently at motion to dismiss stage, and is supported by multiple ongoing government investigations worldwide into similar manipulation of precious metals markets.

- Acting as court-appointed co-lead class counsel in a multi-district litigation against fourteen of the world's largest banks alleged to have manipulated an interest rate benchmark known as ISDAfix. Our complaint, **Alaska Electrical Pension Fund v. Bank of America Corp.**, alleges that defendants colluded to manipulate "ISDAfix," which is used, among other things, to settle swaptions (options on interest rate swaps) and other financial instruments that are benchmarked to the ISDAfix rate. The Complaint prepared by Dan Brockett and his team at Quinn Emanuel contains over 100 pages of sophisticated economic analysis. Defendants' motion to dismiss has been fully briefed and is pending a decision by Judge Jesse Furman.
- Acting as lead counsel for **Prudential**, the **City of Philadelphia**, **Salix Capital**, and **Susquehanna** in lawsuits against numerous banks that participated in setting the U.S. Dollar Libor benchmark interest rate. We allege the banks manipulated the benchmark to their benefit, causing plaintiffs to lose millions on investments that were indexed to Libor. Unlike many of the other suits filed, we decided early-on to focus on claims such as breach of contract and common-law fraud—a decision that would prove prescient in light of the court's later decisions in the lead (antitrust) class-action. On August 4, 2015, the court upheld many of our clients' claims, including for fraud, unjust enrichment, and for breach of the implied covenant of good faith and fair dealing. Those claims will now move forward into discovery.
- Acted as lead outside counsel for **Allstate Corporation** in mortgage-backed securities litigation against JP Morgan, Goldman Sachs, Deutsche Bank, Credit Suisse, and other major banks.
- Acted as lead outside counsel for **Prudential Financial** in a suite of RMBS cases against major banks, including Bank of America, JP Morgan, Goldman Sachs, Credit Suisse, Nomura, Merrill Lynch, UBS, and Barclays.
- Represented **Susquehanna Group** in structured finance cases against JP Morgan and UBS.
- Co-lead trial counsel for a major U.S. industrial conglomerate (**Invista**)in a billion dollar plus ICC arbitration in Paris, France against a major French chemical company (Rhodia) involving ownership rights to certain chemical process technologies pertaining to the nylon industry. The dispute arose out of a joint venture agreement to manufacture certain intermediate chemicals used to manufacture nylon. Spent over two months in Paris for hearings, which were held in both English and French.

- Representing a major US chemical company as Respondent in an ICC arbitration in Paris against three European chemical companies. The dispute involves allegations that Respondent improperly took certain technology from the parties' joint venture in France and used it in Respondent's US plants. French law applies and the language of the Arbitration is both French and English.
- Won a jury verdict of $30 million for an LA-based real estate group in a two-week trial against the Town Of Mammoth Lakes, California in a contract dispute over development of a large hotel and condominium project at Mammoth Yosemite Airport.
- Secured $64 million settlement for class of 3,000 California restaurants in usury and unfair business practice case.
- Won a preliminary injunction for **British Petroleum** in trade secret litigation against a California equipment vendor and Chinese state-owned Yankuang Group that allegedly stole proprietary technology and contracted with American vendors to produce equipment for a $100 million chemical plant to be built in China.
- Won complete victory for **K. Hovnanian Homes** in a complex arbitration involving the termination of a $60 million real estate transaction.
- Won trade secret injunction for **BP Chemicals Ltd.** after a four-month trial in a case involving international corporate espionage and theft of a world-leading technology by Formosa Plastic Group of Taiwan.
- Secured more than $1 billion settlement for **BP Chemicals** in a trade secret dispute with Taiwanese-based Chan Chun Petrochemical Ltd.
- Represented **BP** in trade secret case against Jiangsu Sopo Corporation involving theft of BP's world-leading methanol carbonylation technology.
- Won a multimillion dollar verdict on behalf of a NYSE company in a six week jury trial of a breach of contract action.
- Victory in a three-week trial in Austin, Texas against a former licensing executive accused of stealing trade secrets the verdict included compensatory and punitive damages and an "industry ban" perpetual injunction.
- Won order of disbarment against a prominent Manhattan lawyer as a special prosecutor appointed to represent New York Appellate Division, First Department Disciplinary Committee.
- Lead trial counsel for **USX Corporation** in a trade secret and breach of fiduciary duty case against a leading Japanese steelmaker (NKK Corp) arising out of talent raid on USX's Gary, Indiana plant.
- Defense of a leading New York law firm (**Fried Frank**) in securities fraud litigation growing out of Wall Street insider trading investigations.

Practice Areas

- Antitrust and Competition

- Lender Liability and Other Banking and Financial Institution Litigation
- Class Action Litigation
- Intellectual Property Litigation
- International Arbitration
- Litigation Representing Plaintiffs
- Real Estate Litigation
- Securities Litigation
- Structured Finance and Derivatives Litigation
- Trade Secret Litigation
- Investment Fund Litigation
- Hedge Fund Litigation
- Private Equity Fund Litigation
- Representing Pension Funds, Other Managed Funds, and Government Agencies as Plaintiffs
- Sovereign Wealth Fund Litigation

Education

University of Pittsburgh School of Law

(J.D., *cum laude*, 1982)

University of Pittsburgh Law Review:

Editor

Kent State University

(B.A., Philosophy, 1979)

Admissions

- The State Bar of Ohio
- The State Bar of New York
- The State Bar of Pennsylvania
- United States Supreme Court
- United States Courts of Appeals:
  - Second Circuit
  - Third Circuit
  - Sixth Circuit
  - Ninth Circuit
- United States District Courts:
  - Southern District of New York

Northern District of Ohio

Eastern District of Missouri

Prior Associations

Squire Sanders & Dempsey LLP:

Partner, 1992-2004

Robinson Brockett & Parnass:

Partner, 1991-1992

Davis, Polk & Wardwell:

Associate, 1983-1991

Law Clerk to the Hon. Samuel J. Roberts:

Supreme Court of Pennsylvania, 1982-1984

Awards

Selected to the *Lawdragon 500 Leading Plaintiff Financial Lawyers guide* for Business Litigation, 2020 and 2021

Ranked in New York in Antitrust Mainly Plaintiff by *Chambers USA* 2019 and 2021 and quoted as "a very good lawyer who is always willing to roll the dice."

Included in the list of “Top 20 Trial Law Firms” by *Benchmark Litigation USA* 2021 as a Top 100 Trial Lawyer and a Litigation Star

Selected as a Competition MVP by *Law360*, 2015

Nationally ranked in the *Chambers USA* as a Recognised Practitioner for Securities Litigation in New York, 2014

Selected as one of “New York Area’s Top Rated Lawyers” by ALM, 2012

Publications and Lectures

Daniel L. Brockett, Jeremy Andersen. "Pleading Common Law Fraud in the Second Circuit", *New York Law Journal*, September 27, 2012

Daniel L. Brockett, Jeremy Andersen, David Burnett, *Implications of Statute-of-Limitations Rulings on Mortgage-Backed-Securities Cases*, WESTLAW JOURNAL DERIVATIVES, August 3, 2012, at 3.

"The Sarbanes-Oxley Act of 2002: What It Means for Business Litigators," Securities Regulation Law Journal, Winter 2002

"Line Between Primary and Secondary Liability Still Blurred in Securities Cases," Federal Lawyer, August 2003, Vol. 50

"A Primer on the Foreign Sovereign Immunities Act," Cleveland Bar Journal, October 2003

"Companies Need to Keep Sharp Eye on Trade Secrets," Crain's Cleveland Business, July 15-21, 2002

"Trade Secret Injunctions: The Lead Time Doctrine," Ohio Lawyer's Weekly, May 20, 2002

"Non-U.S. Firms: How To Enforce Your Foreign Trade Secrets In The U.S.," International Commercial Litigation Magazine, January 1999

"Recent Developments in Securities Litigation," Speech to Cleveland Bar Association, 1995

"Overview of the Securities Litigation Reform Act of 1995," Report prepared for client use on new securities reform bill

"Pleading and Discovery Limitations Under the Private Securities Litigation Reform Act of 1995: The Initial Lessons," Speech to Annual Securities Institute of Cleveland Bar Association, 1997

"Federalism and Section 1983: Curtailing the Federal Civil Rights Docket," 43 U. Pitts. L. Rev. 1035 (1982)

Professional Activities

Master Bencher, Anthony J. Celebrezze, Inn of Court Commentator for CNBC, NPR (National Public Radio), Cleveland Plain Dealer, and other media sources

Lecturer on Securities Law and Trade Secret Law

Member, Cleveland Bar Association:
- Litigation Section
- Securities Law Section

Member, The Association of the Bar of the City of New York:
- Antitrust and Trade Regulation Committee, Secretary, 1986

quinn emanuel trial lawyers
quinn emanuel urquhart & sullivan, llp

Sascha N. Rand

Partner
New York Office
Direct Tel: -+1 212-849-7175
sascharand@quinnemanuel.com

Biography

Sascha Rand is a seasoned litigator with a focus on complex, high-stakes, commercial litigation involving financial instruments and institutions, antitrust, bankruptcy, and hedge fund-related litigation. Recently, Mr. Rand has been at the forefront of "busted deal" and *force majeure* litigation and successfully forced the closing of a $550 million acquisition after trial in the Delaware Chancery Court and is representing various Texas wind generation projects against hedge counter-parties in litigation arising out of winter storm Uri. Mr. Rand also played a leading role in numerous high-stakes RMBS litigations, including by recently securing a $500 million RMBS settlement from Credit Suisse, successfully co-chairing a four week jury trial on behalf of the ResCap Liquidating Trust, and representing the Federal Housing Finance Authority in its landmark RMBS securities actions that collectively resulted in over $20 billion in recoveries for the U.S. Treasury.

Mr. Rand is also known for his work in plaintiff antitrust cases and has served as one of the Court-appointed co-lead counsel in an array of precedent-setting cases including the *In re Credit Default Swaps* antitrust case (resulting in an antitrust class action settlement of $1.87 billion); the *In re Stock Lending* antitrust case, and the *In re Interest Rates Swaps* antitrust case.

In past years Mr. Rand has represented UMB in its capacity as indenture trustee of senior bonds issued by Caesars Entertainment Operating Corp. (CEOC) in its action seeking a court appointed receiver and the return of billions in assets stripped from CEOC by its parent and management and was responsible for multi-billion dollar litigation actions and recoveries brought against financial institutions, auditors and other professionals in *Enron*, *Parmalat*, and *Refco*. His clients include asset managers, hedge funds, private equity funds, public pension funds, sovereign wealth funds, bankruptcy and litigation trustees, institutional investors, fortune 500 companies and high net worth individuals and private companies.

Mr. Rand also regularly partners with the Brennan Center for Justice and the Legal Aid Society of New York on high-impact matters, including co-counseling with the Brennan Center in voting rights matters, including during the 2020 election.

Benchmark Litigation has consistently identified Mr. Rand as a *New York Litigation Star* and a *National Bankruptcy Litigation Star*. *Lawdragon* has similarly repeatedly recognized Mr. Rand as a *Leading Plaintiff Financial Lawyer* and a *Leading Restructuring Litigator*.

Representative Clients

- Numerous Hedge and Equity Funds and Asset Managers
- Pension Funds and Institutional Investors
- Rescap Liquidating Trust
- Federal Housing Finance Authority
- Official Creditors Committee of Lehman Brothers Holdings
- Refco Litigation Trustee

Notable Representations

- Successfully represented Snow Phipps in one of the few COVID-related material adverse event claims to go to trial in the Delaware Chancery Court, securing a trial ruling resolving all issues in Snow Phipps' favor and ordering the Defendants, Kohlberg & Company, to close its $550 million acquisition of DecoPac, Inc.
- Obtained a $500 million settlement against RMBS sponsor Credit Suisse on behalf of U.S. Bank National Association, in its capacity as Trustee of various RMBS trusts in a long-running RMBS case asserting breach of contract claims that, when filed, was among the first of its kind.
- Successfully co-chaired four week jury trial on behalf of the ResCap Liquidating Trust ("the Trust") in a bellwether MBS-related action seeking to recover indemnity and damages from correspondent lenders arising from the defendant lenders' sale of defective mortgage loans that was instrumental in securing over $1.3 billion for the Trust.
- Serving as one of the Court-appointed Lead Counsel in *In re Stock Lending Antitrust Litigation*, representing proposed classes of investors in stock lending transactions alleging that the major dealer banks conspired to prevent the development of competition in this market causing billions in damages.

- Serving as one of the Court-appointed Lead Counsel in *In re Interest Rates Swaps Antitrust Litigation*, representing a proposed class of investors in interest rate swap alleging that the major dealer banks conspired to prevent the development of competition in this market causing billions in damages.
- Serving as one of the court appointed lead counsel of the plaintiff class in the Credit Default Swaps Antitrust Litigation, in the Southern District of New York, which negotiated one of the largest antitrust class action settlements in history ($1.87 billion). The case alleged that twelve of the world's largest banks colluded to block the emergence of exchange trading venues for credit default swaps. The Honorable Daniel Weinstein (Ret.), who served as Mediator in the case, stated in a sworn declaration that he had "rarely, if ever, observed a Plaintiff in a case of this complexity and size, achieve a result of this magnitude with the speed that Plaintiffs achieved here."
- Represented the Federal Housing Finance Agency (FHFA) in its landmark RMBS litigation against UBS, JP Morgan, Merrill Lynch, Citibank, Goldman Sachs, Barclays, and Bank of America, and other major banks arising from its Conservatorship for Fannie Mae and Freddie Mac and served as trial counsel for FHFA in its $800 million SDNY trial against Nomura and RBS which was upheld by the Second Circuit. Overall, FHFA recovered approximately $25 billion in these actions.
- Lead counsel for UMB in its capacity as indenture trustee of certain senior bonds issued by Caesars Enterta nment Operating Corp. (CEOC) in its action seeking appointing of a receiver over CEOC and the return of billions in assets and value stripped from CEOC by its parent and management.
- Counsel for the Official Creditors Committee of Lehman Brothers Holdings, Inc. in multibillion lawsuit against JPMorgan Chase & Co. pending in the United States Bankruptcy Court for the Southern District of New York arising from JPMorgan's demand for $8.6 billion in cash collateral in the last week before Lehman filed for chapter 11.
- Obtained favorable settlements from strategic investor, management, outside counsel, auditor and others in connection with representation of the Refco Litigation Trust and Refco Private Actions Trust (successors to the bankruptcy estate of Refco Inc. and its subsidiaries and assignee of private creditor causes of action).
- Obtained a $2.1 billion settlement in favor of Yosemite Trusts and investors resolving contract and fraud claims against Citibank and Enron relating to Enron credit-linked notes.
- Represented globally recognized hedge fund in connection with multi-billion dollar litigation against Porsche arising out of the October 2008 Volkswagen short squeeze.
- Represented sovereign wealth fund in multi-billion dollar arbitration against worldwide financial institution involving mortgage-backed instruments.
- Obtained favorable settlements from bank and auditor in connection with representation of note purchasers of bankrupt beverage manufacturer Le Nature's, Inc.

- Represented a leading mutual fund in a $40 million action against Citibank brought under the Pennsylvania Securities Act relating to Enron credit-linked notes.
- Represented Dr. Enrico Bondi, Extraordinary Commissioner of Parmalat S.P.A in various actions against various financial institutions and accounting firms, for aiding and abetting Parmalat's insiders in the commission of massive fraud and for auditor malfeasance.
- Represented a Florida homebuilder in billion dollar contract action and a New York real estate developer in a contract dispute concerning a mixed use development.
- Represented high net worth individual in dispute with international bank concerning exotic currency options.
- Represented the former officers and directors and various investors in litigation brought by a Creditors Committee arising out of the bankruptcy of Interliant, Inc., a publicly-traded technology company.

Practice Areas

- Antitrust and Competition
- Bankruptcy and Restructuring
- Domestic U.S. Arbitration
- Investment Fund Litigation
- Lender Liability and Other Banking and Financial Institution Litigation
- Litigation Representing Plaintiffs
- Real Estate Litigation
- Securities Litigation
- Structured Finance and Derivatives Litigation
- Transnational Litigation
- Mergers & Acquisitions Litigation
- Shareholder Activism

Education

Benjamin N. Cardozo School of Law

(J D, *magna cum laude*, 1997)

Cardozo Law Review:

Submissions Editor

Recipient of *Felix Frankfurter Award* (recognizing “outstanding academic achievement, maturity and responsibility, diligence and judgment”)

Order of the Coif

Oxford University

(M. St., Constitutional Theory and Jurisprudence, 2000)

Vassar College

(B A , History, 1993)

Admissions

- The State Bar of New York
- United States Court of Appeals:
  - Second Circuit
  - Seventh Circuit
- United States District Courts:
  - Southern District of New York
  - Eastern District of New York

Prior Associations

Weil, Gotshal & Manges LLP

Associate, Litigation Department, 1997-2004

Brennan Center For Justice, New York University:

Staff Attorney (Part time), 2000 2001

Awards

Recognized as a *New York Local Litigation Star* for General Commercial Litigation by *Benchmark Litigation*, 2011-2022.

Recognized as a *National Litigation Star for Bankruptcy* by *Benchmark Litigation*, 2011-2021.

Recognized as a *Leading Plaintiff Financial Lawyer* and a *Leading Bankruptcy & Restructuring Lawyer* by *Lawdragon*, 2020 and 2021.

Professional Activities

Member, The Federal Bar Council: Prior Member of the Public Service Committee

Regularly partners with the Brennan Center for Justice and the Legal Aid Society on high-impact matters and initiatives

quinn emanuel trial lawyers
quinn emanuel urquhart & sullivan, llp

Steig D. Olson

Partner
New York Office
Direct Tel: -+1 212-849-7152
Direct Fax: +1 212-849-7100
steigolson@quinnemanuel.com

Biography

Steig, who was ranked in New York Antitrust: Mainly Plaintiff by *Chambers USA* from 2019 to 2021, was quoted as "fantastic, whip-smart and an incredible writer. He was also named a "Rising Star in the field of competition law by legal journal *Law360* and a Next Generation Leading Lawyer by *Legal 500*, has a uniquely versatile practice focusing on antitrust and competition law: he represents both corporate plaintiffs and defendants in high-stakes antitrust and other complex commercial litigation, including class actions. Steig also represents plaintiffs in "opt out" actions and claimants before regulatory bodies addressing competition-related issues. The breadth of his practice affords Steig a perspective that benefits his clients no matter what side of the "v." they are on.

Steig served as a law clerk on the Second Circuit, for Judge Barrington D. Parker, Jr., and the Northern District of California, for former Chief Judge Vaughn R. Walker. Steig's scholarship on complex litigation matters has been cited by the Third and Ninth Circuit Courts of Appeals.

Notable Representations

- Represents The Home Depot in an antitrust lawsuit against Visa and MasterCard concerning allegedly unlawful practices that caused The Home Depot and other U.S. merchants to pay inflated fees when they accept credit and debit cards.
- Lead counsel for United Parcel Service, Inc. in matters before the Postal Regulatory Commission involving competition in parcel delivery markets.

- Represents IQVIA (formerly IMS Health), a leading provider of information, services, and technology in the health care field, in trade secrets and antitrust litigation against Veeva Systems.
- Represents The City of Philadelphia in multiple antitrust actions, including in a case against the Wall Street Banks that allegedly worked together to suppress the London Interbank Offered Rate which was a pricing term in derivatives contracts between municipal entities and the banks.
- Served as one of the Court-appointed Lead Counsel in *In re Credit Default Swaps Antitrust Litigation*, representing a proposed class of investors in credit default swaps, alleging that the major dealer banks, and standard-setting and data entities they control, conspired to prevent the development of competition from exchanges and clearinghouses in this market. The defendants agreed to pay over $1.86 billion to settle the case, which is one of the largest antitrust class actions in history.
- Served as one of the principal lawyers in the *ISDAfix Antitrust Litigation*, where Quinn Emanuel served as one of the court-appointed Lead Counsel class of investors in interest rate derivatives who were allegedly harmed when the defendant banks conspired to manipulate the "ISDAfix" reference rate, a key interest rate benchmark. In approving settlements totaling over $500 million, Judge Furman of the S.D.N.Y noted that the ISDAfix proceeding was "the most complicated case" he ever faced, and that he could "not really imagine" how much more complicated "it would have been if I didn't have counsel who had done as admirable a job in briefing it and arguing it." Quinn Emanuel's work on the case resulted in our being awarded the American Antirust Institute's "Outstanding Antitrust Litigation Achievement in Private Law Practice" award for 2018.
- Represented Gilead Sciences, Inc. in defending antitrust claims alleging that Gilead unlawfully refused to deal with companies seeking to develop generic drugs. On September 29, 2015, Steig and other members of the team obtained dismissal of all claims against Gilead in an antitrust suit brought by a generic pharmaceutical manufacturer in the District of Minnesota.

Practice Areas

- Antitrust and Competition
- Lender Liability and Other Banking and Financial Institution Litigation
- Class Action Litigation
- Litigation Representing Plaintiffs
- Securities Litigation
- Structured Finance and Derivatives Litigation

Education

Harvard Law School

(J.D., *magna cum laude*, 2001)

Vassar College
(B.A., Philosophy, 1997)

Admissions

- The State Bar of New York

Prior Associations

Hausfeld LLP:
Partner, 2008-2011

Cohen Milstein Hausfeld & Toll, PLLC:
Associate, 2003-2008

Law Clerk to the Honorable Barrington D. Parker Jr.:
United States Court of Appeals for the Second Circuit, 2002-2003

Law Clerk to the Honorable Vaughn R. Walker:
United States District Court for the Northern District of California

Awards

Ranked by *Who's Who Legal:* Competition USA (New York), 2021

Selected to the *Lawdragon 500 Leading Plaintiff Financial Lawyers guide* for Antitrust Litigation, 2020

Ranked in New York in Antitrust: Mainly Plaintiff by *Chambers USA*, 2019-2021 and quoted as "fantastic, whip-smart and an incredible writer."

Named a New York Metro Super Lawyer in Antitrust Litigation, Business Litigation, and Civil Rights by *Super Lawyers*, 2019

Named by *Legal 500* as one of the Next Generation of Leading Lawyers for Civil Litigation and Class Actions, 2017

Named a New York Metro Rising Stars by *Super Lawyers*, 2012, 2013, and 2014

Named a Rising Star in the field of competition law by legal journal *Law360*, 2013

quinn emanuel trial lawyers
quinn emanuel urquhart & sullivan, llp

Deborah K. Brown

Partner
New York Office
Direct Tel: -+1 212-849-7116
deborahbrown@quinnemanuel.com

Biography

Deborah K. Brown has a broad litigation practice, representing clients in connection with complex business disputes in both federal and state courts, with particular emphasis on business acquisition disputes, including post-closing purchase price disputes, working capital adjustments, business performance and earn-out disputes, breach of fiduciary duty, breach of representations and warranties, breach of contract, material adverse change disputes, misrepresentation, and fraud. In addition, Ms. Brown has represented clients in connection with disputes involving accountants liability, stock option backdating, class actions, antitrust claims, securities, employment issues, SEC and DOJ inquiries and investigations, trademarks, copyrights, and various other contract and tort claims. She has extensive experience in addressing various damages issues, including accounting and tax-related issues, related to all such disputes.

Ms. Brown is a former Certified Public Accountant, who practiced in the accounting field for seven years prior to beginning her practice as an attorney. As an accountant, she gained extensive experience in the areas of both audit and tax. As a trial attorney, Ms. Brown has a record of successfully litigating, resolving, and taking to trial a broad array of business disputes for plaintiffs and defendants in state and federal courts, as well as in various forms of alternative dispute resolution. Ms. Brown is an expert at litigating complex contract disputes, including those related to merger and acquisition agreements, licensing agreements, and distribution agreements.

Ms. Brown has represented such diverse companies as Barnes & Noble, American Express Company, The Home Depot, Mercuria Energy Group, Platinum Equity, Meda Pharmaceuticals, Mallinckrodt Inc., Caruso Management Company, OppenheimerFunds, Inc., Georgia-Pacific, Nuance Communications, Madison Square Garden Company, Academy of Television Arts & Sciences, and Miramax Film Corp

Practice Areas

- Antitrust and Competition
- Class Action Litigation
- Domestic U.S. Arbitration
- Employment Litigation and Counseling
- Intellectual Property Litigation
- Litigation Representing Plaintiffs
- Media and Entertainment Litigation
- Mergers & Acquisitions Litigation
- Securities Litigation
- Structured Finance and Derivatives Litigation
- Transnational Litigation

Education

Georgetown University Law Center
(J.D., *cum laude*, 2002)
Georgetown Law Journal:
Primary Editor, Book Reviews and Special Projects

Mary Washington College
(B.S., *magna cum laude*, 1994)

Admissions

- The State Bar of New York
- United States District Courts:
  - Southern District of New York
  - Eastern District of New York
  - Northern District of New York

Awards

Selected to the *Lawdragon 500 Leading Plaintiff Financial Lawyers guide* for Business Litigation, 2020 and 2021

Professional Activities

Certified Public Accountant, Licensed in Virginia, June 1998 (inactive)

Jeremy Andersen

Partner
Los Angeles Office
Direct Tel: -+1 213-443-3685
jeremyandersen@quinnemanuel.com

Biography

Jeremy D. Andersen joined the firm in 2003. His accounting background allowed him to begin work immediately in untangling large financial frauds. Since joining the firm, he has worked on multiple cases involving billions of dollars worth of fraud, antitrust, Commodity Exchange Act, and securities claims against Wall Street banks. Bringing such claims has involved reconstructing complex financial transactions, tracing cash flows (real and falsified), dealing with intercompany accounting and revenue issues, and following transactions from inception, to the accounting records, to the audited financial statements and other representations made to investors.

He often serves as the "translator" for the firm and the Court—turning incredibly complex data, expert analysis, and concepts into plain-English pleadings and motions. He has done this on behalf of institutional investors, insurance companies, and bankrupt estates against most of the world's largest banks and auditing firms, both in individual actions and by way of being part of our firm's role as lead class counsel.

By way of example, in a recent class action involving manipulation of the ISDAfix benchmark rate, he was responsible for creating the narrative surrounding our firm's industry-leading development of statistical models that found abnormalities in the daily setting of the benchmark rate, before the government had even acted. He then had primary responsibility for the expert materials developing a groundbreaking model for measuring damages—one keyed off a theory that manipulative trades permanently impact prices—that was the foundation for the request to certify the class. And after those efforts directly led to over $500 million in settlements, he was the main architect and defender of a multi-pronged plan of how to distribute those proceeds to a large and sophisticated group of class members.

His other work has included creating the template many would follow for how to plead (and then defend against a motion to dismiss) a fraud case arising out of residential mortgage-backed securities; bringing claims arising out of the rigging of the LIBOR benchmark (the "world's most important number"); crafting the leading complaint for rigging prices of U.S. Treasuries; pursuing antitrust claims against Wall Street for having distorted the evolution of multiple marketplaces (including those for interest rate swaps, credit default swaps, U.S. Treasuries, and for the lending of stocks—which has been called the "mother of all dark pools"); seeking compensation on behalf of the class for price-fixing in the market for supranational, sub-sovereign, and agency ("SSA") bonds, which has already resulted in tens of millions in settlements; bringing similar claims for rigging prices in the market for gold and related securities, which similarly secured tens of millions before discovery even began; and in securing a lead-counsel position for our firm in pursuing claims against the Chicago Board Options Exchange for failing to have adequately safeguard against manipulation of the "VIX" (known as the nation's "fear gauge"). He has also led efforts to secure documents in the United States to assist the prosecution of foreign actions, by way of 28 U.S.C § 1782.

Representative Clients

- Allstate Insurance Company
- Prudential Insurance Company of America
- Susquehanna International Group, LLP
- Parmalat, SpA

Notable Representations

- Mr. Andersen has been on the forefront, on behalf of multiple clients, of the mortgage-backed securities litigation. This has included representation of investors pursuing claims directly for fraud, and representation of those pursuing contractual remedies.
- He is also part of the firm's lead-counsel role for a class-action asserting antitrust claims tied to collusion in the market for credit-default swaps, part of the firm's lead-counsel role for a class-action asserting antitrust and CEA claims tied to manipulation of the ISDAfix benchmark interest rate, and part of the firm's lead-counsel role for a class-action asserting manipulation of the gold market.

Practice Areas

- Lender Liability and Other Banking and Financial Institution Litigation
- Investment Fund Litigation
- Securities Litigation
- Structured Finance and Derivatives Litigation
- Representing Pension Funds, Other Managed Funds, and Government Agencies as Plaintiffs

Education

Harvard Law School
(J.D., *cum laude*, 2003)

Arizona State University
(B.S., Accounting, 2000)

Admissions

- The State Bar of California

Awards

Law360, Rising Star: Securities, 2016

Publications and Lectures

Daniel L. Brockett, Jeremy Andersen, and Nathan Goralnik, *End of LIBOR Presents Litigation Risk for Dealmakers*, Law 360 March 11, 2020

Panelist, *Managing and Preparing for LIBOR Transition: A Practical Guide*, February 26, 2020

Daniel L. Brockett and Jeremy D. Andersen, *Pleading Common Law Fraud In the Second Circuit*, New York Law Journal, September 27, 2012.

Daniel L. Brockett, Jeremy Andersen, David Burnett, *Implications of Statute-of-Limitations Rulings on Mortgage-Backed-Securities Cases*, WESTLAW JOURNAL DERIVATIVES, August 3, 2012, at 3.

"Victim-Offender Settlements, General Deterrence, and Social Welfare,"
Harvard John M. Center for Law, Economics, and Business: Discussion Paper No. 402 2003

quinn emanuel trial lawyers
quinn emanuel urquhart & sullivan, llp

DANIEL MACH
Of Counsel
New York
Tel: + 1 212-849-7066
Fax: +1 212-849-7100
E-mail: danielmach@quinnemanuel.com

Dan Mach joined Quinn Emanuel as an associate in the firm's New York office in 2015. He is experienced in both trial and appellate litigation, including matters involving complex commercial, environmental, administrative, and employment law, energy regulation, oil & gas disputes, structured finance, and land use. He has appeared and argued in state and federal courts, before regulatory tribunals, private arbitration, and various regulatory agencies. He has extensive trial and appellate finance-sector experience in lawsuits over securities, contract, and antitrust disputes involving mortgage-backed securities and other structured financial instruments. He has defended private equity clients in a variety of commercial disputes, both on behalf of portfolio companies and with respect to investor disputes. Dan's subject-matter expertise involves numerous representations on behalf of brand pharmaceutical companies in contract disputes as well as patent matters. In the tech sector, he has also taken patent infringement matters through a jury verdict and both negotiated and litigated numerous licensing disputes in the pharmaceutical sector.

Dan is an experienced class-action lawyer, having served clients on both sides of the "v" in employment, consumer, and investor/shareholder class actions. His accomplishments include successes on behalf of a government defense contractor against employment class claims, preserving defense-side class action victories against objectors and on appeal, and litigating major financial plaintiff-side cases to substantial settlements. Before joining the firm, Dan clerked for the Honorable F. Dennis Saylor IV of the United States District Court for the District of Massachusetts and for the Honorable Susan P. Graber of the United States Court of Appeals for the Ninth Circuit.

EDUCATION

Harvard Law School
(J.D., *cum laude*, 2011)

Harvard College
(A.B., *magna cum laude*, Classics, 2007)

PUBLICATIONS

Environmental Law: Developments in the Law of SEQRA, 2013–14 Survey of New York Law, co-authored with Mark A. Chertok, 65 SYRACUSE L. REV. 749 (2015).

The Treatment of Climate Change Issues in Environmental Impact Assessment Procedures Under States' "Little NEPAs", presentation co-authored with Mark A. Chertok (2014).

Environmental Law: Developments in the Law of SEQRA, 2012–13 Survey of New York Law, co-authored with Mark A. Chertok, 64 SYRACUSE L. REV. 717 (2014).

Waiting for the Other Shoe to Drop: Criminal Prosecution for Environmental Acts, coauthored with Daniel Riesel, SV027 ALI-CLE 193 (Feb. 5, 2014).

Rules Without Reasons: The Diminishing Role of Statutory Policy and Equitable Discretion in the Law of NEPA Remedies, 35 HARV. ENVTL. L. REV. 205 (2011).

PRIOR ASSOCIATIONS

Law Clerk to the Hon. Susan P. Graber:
United States Court of Appeals for the Ninth Circuit, 2012-2013

Law Clerk to the Hon. F. Dennis Saylor IV:
United States District Court for the District of Massachusetts, 2011-2012

ADMISSIONS

The State Bar of New York
United States District Courts:
Southern District of New York
Eastern District of New York
U.S. Court of Appeals for the First Circuit
U.S. Court of Appeals for the Third Circuit
U.S. Court of Appeals for the Ninth Circuit

quinn emanuel trial lawyers
quinn emanuel urquhart & sullivan, llp

David LeRay

Associate
New York Office
Direct Tel: -+1 212-849-7630
davidleray@quinnemanuel.com

Biography

David LeRay is an associate in Quinn Emanuel's New York office. He joined the firm in 2013. His practice focuses on antitrust litigation, class action litigation, and regulatory matters. He has represented a broad array of clients including buy-side financial institutions, logistics providers, and technology companies.

Education

Harvard Law School

(J.D., *cum laude*, 2013)

Worcester Polytechnic Institute

(M.S., Applied Mathematics, 2007)

Worcester Polytechnic Institute

(B.S., *high distinction*, Mathematics and Mechanical Engineering, 2005)

Admissions

The State Bar of New York

Prior Associations

BAE Systems:

Senior Research Engineer, 2007-2009

quinn emanuel trial lawyers
quinn emanuel urquhart & sullivan, llp

Maxwell Meadows

Associate
New York Office
Direct Tel: -+1 212-849-7085
maxmeadows@quinnemanuel.com

Biography

Max Meadows is an associate in Quinn Emanuel's New York office. He joined the firm in 2017. His practice focus is on antitrust litigation. Prior to joining the firm, Max worked as an attorney and Excelsior Service Fellow in the General Attorney's office of the New York State Insurance Fund. While there, he assisted with statutory and regulatory compliance, information security, legislative analyses and agency operations. He also researched and wrote memoranda on various legal topics including the development of New York's Paid Family Leave program. Max's experience also includes work in the insurance and workers' compensation industry.

Education

Fordham University School of Law

(J.D., *magna cum laude*, 2015)
  Order of the Coif

The College of William and Mary

(B.A., Public Policy and Economics, *cum laude* 2012)

Admissions

The State Bar of New York

Publications and Lectures

The Essential Facilities Doctrine in Information Economies: Illustrating Why the Antitrust Duty to Deal is Still Necessary in the New Economy, 25 FORDHAM INTELL. PROP. MEDIA & ENT. L.J. 795 (2015)

Welfare Reform in 1996: An Unlikely Accomplishment Born Out of Problems, Politics, and Policy, *Pi Sigma Alpha Undergraduate Journal of Politics* Vol. XI, No. II (Fall 2011)

EXHIBIT 3

COHENMILSTEIN

Powerful Advocates. Meaningful Results.

"The most effective law firm in the United States for lawsuits with a strong social and political component."

Inside Counsel

"Class action powerhouse."

Forbes

COHENMILSTEIN

Powerful Advocates. Meaningful Results.

About the Firm

Cohen Milstein Sellers & Toll PLLC is a trailblazer in plaintiff-side and class action litigation, handling groundbreaking cases resulting in landmark decisions involving antitrust, securities, consumer rights, civil rights, and other far-reaching matters.

Cohen Milstein fights corporate abuse by pursuing litigation on behalf of individuals, investors, whistleblowers, small businesses, and other institutions in lawsuits that have raised significant and often novel legal issues.

With more than 100 attorneys in 10 practice areas in six offices across the country, including Washington, DC; Chicago, IL; New York, NY; Palm Beach Gardens, FL; Philadelphia, PA; and Raleigh, NC, Cohen Milstein is also recognized as one of the largest and most diversified plaintiffs' firms in the country.

We regularly litigate complex matters across a wide range of practice areas:

- Antitrust
- Civil Rights & Employment
- Complex Tort Litigation
- Consumer Protection
- Employee Benefits / ERISA
- Ethics and Fiduciary Counseling
- Human Rights
- Public Client
- Securities Litigation & Investor Protection
- Whistleblower/False Claims Act

In 2022, *Law360* recognized three of Cohen Milstein's practices as a "2021 Practice Group of the Year" in Benefits, Class Actions, and Employment. In 2021, *The National Law Journal* and *The Trial Lawyer,* the official magazine of The National Trial Lawyers, named Cohen Milstein one of "America's Most Influential Law Firms." *Chambers USA* and *Legal 500* likewise recognized Cohen Milstein as a "Top Tier Firm" and "Leading Firm" in Antitrust and other practice areas. Cohen Milstein was also named among "The Best Law Firms for Female Attorneys" in *Law360*'s 2021 "Glass Ceiling Report."

COHENMILSTEIN

Powerful Advocates. Meaningful Results.

Antitrust

Cohen Milstein is widely respected as one of the preeminent plaintiffs' antitrust class action practices in the United States. We focus predominantly on national antitrust class actions, including litigating (and winning) class action jury trials and appeals.

Our class action experience spans all industries, including agriculture, automotive parts, chemicals, oil and gas, financial services, health care, high tech, media and entertainment, pharmaceuticals, and many others.

Our clients include pension funds, businesses, and individuals. We gladly take on – and defeat – formidable opponents, which have included such giants as Dow Chemical, Apple, and The Walt Disney Company.

Setting Precedents

Our work has shaped the antitrust landscape and helped change industry.

Novel Antitrust Labor Litigation – Our firm has spearheaded numerous cases advocating for workers whose employers have conspired to suppress their wages in violation of antitrust laws, including animation workers, poultry workers, and nurses.

Ground-Breaking Securities Markets Disputes – We are one of two law firms leading three ground-breaking antitrust lawsuits involving collusion by many of the world's biggest banks in three of the world's largest securities markets, including Interest Rate Swaps, Treasuries, and Stock Lending.

Cutting-Edge Disputes in Tech – Our work against Apple, Google, Pixar, and other companies in the tech sector have helped mitigate uncontrolled growth and collusive behavior in this dynamic and quickly evolving industry.

Our People

Most of our lawyers served as judicial law clerks. Some served in the Department of Justice and other government agencies. Others bring decades of experience at top defense firms.

COHENMILSTEIN

Powerful Advocates. Meaningful Results.

Judicial Recognition

We have been honored to receive enthusiastic praise from courts across the country.

"I can't imagine attorneys litigating a case more rigorously than you all did in this case. … The level of representation of all parties in terms of the sophistication of counsel, was, in my view, of the highest levels. I can't image a case in which there was really a higher quality of representation across the board than this one."

~ **The Honorable William E. Smith, U.S. District Court for the District of Rhode Island** (*In re Loestrin 24 Fe Antitrust Litigation*, August 27, 2020 final approval hearing.)

"This is a substantial recovery that has the deterrent effect that class actions are supposed to have, and I think it was done because we had really good Plaintiffs' Lawyers in the case running it."

~ **The Honorable Brian M. Cogan, U.S. District Court for the Eastern District of New York** (*In re Dental Supplies Antitrust Litigation*, June 24, 2019 final approval hearing.)

"[C]ounsel achieved incredible success on the merits of the claims. . . . Liability on these claims was far from certain, and thus the case presented a great deal of risk, as counsel was required to advance all expenses and attorney time to litigate a hard fought case against highly experienced opposing counsel hired by a defendant with ample resources. . . . In almost 25 years of service on the bench, this Court has not experienced a more remarkable result."

~ **The Honorable John W. Lungstrum for the U.S. District Court for the District of Kansas** (*In re Urethanes Antitrust Litigation*, July 29, 2016 final approval hearing.)

"The exceptional recovery for class members weighs heavily in favor of a greater-than-benchmark award of attorney fees for Plaintiffs' Counsel . . . . This is not the first time the Court has discussed Plaintiffs' Counsels' skill at litigating complex class action cases such as this. The Court's position on Class Counsel has not changed. Suffice to say, the Court takes a favorable view of the breadth and depth of experience of Plaintiffs' Counsel, recognizes the extraordinary efforts they made on behalf of the class, and (as stated above) finds the settlement amount extraordinary."

~ **The Honorable Anthony W. Ishii, U.S. District Court for the Eastern District of California** (*Carlin v. DairyAmerica Inc.*, May 8, 2019 final approval hearing.)

COHENMILSTEIN

Powerful Advocates. Meaningful Results.

"[Plaintiffs counsel] undertook serious risk in this case throughout the litigation. The lawyering on both sides — but for now I'm just talking to you [Plaintiffs Counsel], because your money was on the line — was excellent."

"This case involved complicated and novel legal issues."

"It has been a pleasure to have read what you write and listen to what you say. For me, this was a fascinating case and it was very well-litigated by all."

~ **The Honorable William H. Orrick for the U.S. District Court for the Northern District of California** (*In re Lidoderm Antitrust Litigation*, September 6, 2018 final approval hearing.)

"Few cases with no government action, or investigation, result in class settlements as large as this one."

[Cohen Milstein] was "imaginative" in its successful bid for class certification and had done "outstanding work" overall.

"I am personally knowledgeable of the high degree of [Plaintiffs counsel] competence" . . . [they have a] "sophisticated and highly professional approach."

~ **The Honorable Michael M. Baylson, U.S. District Court for the Eastern District of Pennsylvania** (*In re Domestic Drywall Antitrust Litigation*, July 16, 2018 final approval hearing.)

"I think the enforcement of our Nation's antitrust laws is vitally important to the vibrancy of our economy. Few firms are equipped with the resources and skills to pursue litigation of this complexity and against such well-funded defendants. The skill with which plaintiffs' counsel acted in this case benefited the class and I would say benefited the American economic system as a whole. That is the importance of antitrust litigation I think."

[Counsel] "has been excellent and have been of great assistance to the Court.

~ **The Honorable Denise L. Cote, U.S. District Court for the Southern District of New York** (*In Re: Electronic Books Antitrust Litigation*, December 8, 2014 final approval hearing.)

COHENMILSTEIN

Powerful Advocates. Meaningful Results.

Representative Matters

We have recovered billions of dollars in damages for injured plaintiffs in some of the nation's most complex Antitrust lawsuits

- ***In re Urethanes Antitrust Litigation* (D. Kan.):** Cohen Milstein served as co-lead counsel on behalf of a class of direct purchasers of chemicals used to make many everyday products, from mattress foam to carpet cushion, who were overcharged as a result of a nationwide price-fixing conspiracy. We secured the largest trial verdict ever in a price-fixing case ($1.06 billion – after trebling and settlement offsets). Dow Chemical and other leading chemical producers ultimately settled, with combined total settlements of $974 million.

- ***In re Animation Workers Litigation* (N.D. Cal.):** Cohen Milstein served as co-lead counsel representing a class of animation and visual effects workers who alleged that Pixar, Lucasfilm, DreamWorks, Disney and other studios conspired to suppress their pay primarily through no-poach agreements. We secured $168.5 million in total settlements, yielding average awards of more than $13,000 per class member in this novel "no-poach" pay suppression class action.

- ***Sutter Health Antitrust Litigation* (San Fran. Cnty., Cal.):** On August 27, 2021, the Court granted final approval of a $575 million eve-of-trial settlement, which includes significant injunctive relief, in this closely-watched antitrust class action against Sutter Health, one of the largest healthcare providers in California, for restraining hospital competition through anticompetitive contracting practices with insurance companies. Cohen Milstein was one of five firms that litigated this case since 2014 on behalf of a certified class of self-insured employers and union trust funds. California's Attorney General joined the suit in March 2018.

- ***In re Electronic Books Antitrust Litigation* (S.D.N.Y.):** We secured $560 million in total settlements against Apple and other e-book developers. The settlements resolved damages claims brought by a class of ebook purchasers and attorneys general from 33 U.S. states and territories.

- ***In re Broiler Chicken Antitrust Litigation* (N.D. Ill.):** Cohen Milstein represents a class of end-user consumers of broiler chicken alleging that the defendants, who include Perdue Farms and Tyson Foods, agreed to restrict the supply of broilers, among other things, thereby raising their price to consumers. The Court so far has preliminarily approved settlements with six of the defendants for a total of $181 million and the case is in merits expert discovery.

- ***In re Domestic Drywall Antitrust Litigation* (E.D. Pa.):** Cohen Milstein served as co-lead counsel for a class of direct purchasers of drywall against drywall manufacturers for price-fixing. The Court approved settlements that total more than $190 million.

- ***In re Plasma-Derivative Protein Therapies Antitrust Litigation* (N.D. Ill.):** After four years of litigation, Defendants, including Baxter International Inc., Baxter Healthcare Corp., CSL Limited, CSL Behring LLC, CSL Plasma, Inc. and the Plasma Protein Therapeutics Association, agreed to pay $128 million to settle a class action brought by the University of Utah Hospital and other health care providers alleging that CSL, the PPTA, and Baxter agreed to restrict the supply of immunoglobulin and albumin and thereby increase the prices of those therapies.

- ***In re Lidoderm Antitrust Litigation* (N.D. Cal.):** Plaintiffs alleged that manufacturers of the Lidoderm patch, paid Watson Pharmaceuticals to delay its generic launch. The case settled on the eve of trial and on September 20, 2018, plaintiffs obtained final approval of a $104.75 million settlement -- the largest end-payor settlement in a federal generic suppression case in over a decade.

- ***Cung Le, et al v. Zuffa, LLC, d/b/a Ultimate Fighting Championship and UFC* (D. Nev.):** Cohen Milstein is co-lead counsel in this antitrust class action on behalf of current and former UFC fighters who allege that the UFC unlawfully monopolized the market for mixed martial arts ("MMA") promotion by, among other things, locking up fighters with exclusive contracts and acquiring its rivals, leading to suppressed compensation for the fighters. Plaintiffs allege that, as a result of its anti-competitive conduct, the UFC receives approximately 90% of all revenue generated by MMA events in the US, while paying UFC fighters a fraction of what they would earn in a competitive marketplace. Plaintiffs' motion for class certification is currently pending before the Court. At a status conference on September 17, 2020, the Honorable Richard F. Boulware II stated that he was "likely' to certify a class.

COHENMILSTEIN

Powerful Advocates. Meaningful Results.

Accolades

Practice Achievement: Our Antitrust practice is recognized as among the most preeminent in the country:

Chambers USA **"Antitrust: Plaintiffs - Nationwide"** (2020, 2021)

Legal 500 **"Leading Plaintiff Class Action Antitrust Firm"** (2010 – 2021)

The National Law Journal **"Finalist - Elite Trial Lawyers - Pharmaceutical"** (2019, 2021)

ALM/The National Trial Lawyers **"Antitrust Law Firm of the Year"** (2020)

Law360 **"Practice Group of the Year - Life Sciences"** (2020)

The National Law Journal **"Finalist - Elite Trial Lawyers - Antitrust"** (2018, 2019)

The National Law Journal **"Winner - Elite Trial Lawyers - Antitrust"** (2016)

Law 360 **"Practice Group of the Year - Competition"** (2016)

National Law Journal **Plaintiffs' Hot List** (2011 – 2013, 2015 – 2016)

Law360 **"Most Feared Plaintiffs Firm"** (2013 – 2015)

Individual Achievement: Our Antitrust lawyers are recognized as among the best in the industry:

GCR Who's Who Legal **"Global Thought Leaders - Competition"** (2022)

Chambers USA **"Ranked Individuals"** (2020, 2021)

Lawdragon **"500 Leading Lawyers in America"** (2016 - 2021)

The National Law Journal **"Elite Women of the Plaintiffs Bar"** (2019, 2021)

GCR's Who's Who Legal **"Global Leader: Competition - Plaintiff"** (2017 - 2021)

Legal 500 **"Next Generation Lawyer"** (2017 - 2021)

Law360 **"Titans of the Plaintiffs Bar"** (2020)

Lawdragon **"500 Leading Plaintiff Financial Lawyers"** (2019, 2020)

Law360 **"Rising Stars"** (2018, 2020)

Benchmark Litigation **"40 & Under Hot List"** (2018-2020)

Law360 **"MVP"** (2014, 2016, 2019)

American Antitrust Institute **"Outstanding Antitrust Litigation Achievement by a Young Lawyer"** (2018, 2019)

Legal 500 **"Hall of Fame"** (2017)

COHENMILSTEIN

Powerful Advocates. Meaningful Results.

Michael B. Eisenkraft, Partner

New York, NY

t: 212.838.0177
f: 212.838.7745
meisenkraft@cohenmilstein.com

Practice Areas

- Securities Litigation & Investor Protection

Admissions

- New York
- New Jersey

Education

- Harvard Law School, J.D., *cum laude*, 2004
- Brown University, B.A., *magna cum laude*, Phi Beta Kappa, 2001

Clerkships & Fellowships

- Law Clerk, the Hon. Judge Barrington D. Parker, U.S. Court of Appeals for the Second Circuit, 2007-2008

Michael B. Eisenkraft is a Partner at Cohen Milstein where he takes a leading role in prosecuting innovative cases relating to the protection of financial and commodity markets for the firm and currently represents investors in the Interest Rate Swaps, Treasuries, Stock Lending, KOSPI 200, XIV ETN, and Overstock.com markets. He has also helped investors recover hundreds of millions of dollars in the firm's mortgage-backed securities cases and represents businesses in commercial contingency litigation. Mr. Eisenkraft serves as the Administrative Partner for Cohen Milstein's New York office and chairs the firm's New Business Development Committee.

Mr. Eisenkraft was honored by *Law360* in 2018 as one of six attorneys under the age of forty in the field of securities whose "professional accomplishments belie their age," by Benchmark Litigation (40 & Under Hot List) for the last two years, and by Legal 500 as a "Next Generation Lawyer." He has been recognized repeatedly by New York Super Lawyers (Rising Star 2013-2019) and is rated "AV Preeminent" by Martindale-Hubbell (2017-2020).

His notable successes at Cohen Milstein include:

- ***NovaStar MBS Litigation* (S.D.N.Y.):** $165 million settlement on behalf of investors in a Securities Act litigation involving billions of dollars of mortgage-backed securities underwritten by the Royal Bank of Scotland, Wachovia and Deutsche Bank.
- ***HEMT MBS Litigation* (S.D.N.Y.):** $110 million settlement on behalf of investors in mortgage-backed securities issued and underwritten by Credit Suisse after more than seven years of litigation, which included the first written decision certifying a Securities Act class of mortgage-backed securities in the country.
- ***RALI MBS Litigation* (S.D.N.Y.):** $335 million in settlements on behalf of investors in mortgage-backed securities issued by Residential Capital and underwritten by various investment banks after seven years of litigation.

- ***Harborview MBS Litigation* (S.D.N.Y.):** $275 million settlement on behalf of investors in mortgage-backed securities issued and underwritten by the Royal Bank of Scotland and its subsidiaries after more than six years of litigation.
- ***Dynex Litigation* (S.D.N.Y.):** $7.5 million settlement on eve of trial on behalf of investors in asset-backed securities. The decision certifying the class in the case was the first decision within the Second Circuit certifying a class of asset-backed bond purchasers under the 1934 Act.
- ***China MediaExpress Litigation* (S.D.N.Y.):** $12 million settlement with auditor defendant in case involving alleged fraud at Chinese reverse merger company China MediaExpress. One of the largest settlements with an auditor defendant in a case involving a Chinese reverse merger company.
- ***LIBOR (Exchange Traded Class):*** $187 million in settlements with defendants, the largest class action settlement of manipulation claims in the history of the Commodity Exchange Act, 7 U.S.C. § 1 et seq.

Mr. Eisenkraft's current cases include:

- ***In Re: Interest Rate Swaps Antitrust Litigation* (S.D.N.Y.):** Court-appointed co-lead counsel in antitrust class action alleging that major investment banks conspired to prevent an all to all market for interest rate swaps from developing.
- ***In Re: Treasuries Securities Auction Antitrust Litigation* (S.D.N.Y.):** Court-appointed co-lead counsel in antitrust and Commodity Exchange Act class action alleging manipulation of the multi-trillion dollar market for U.S. Treasuries and related instruments.
- ***Stock Lending Antitrust Litigation* (S.D.N.Y.):** Leading antitrust class action alleging that major investment banks conspired to prevent the stock lending market from evolving by boycotting and interfering with various platforms and services designed to increase transparency and reduce costs in the stock lending market.
- ***Tower Research Capital* (S.D.N.Y.):** Leading Commodity Exchange Act class action against a high frequency trading firm alleging manipulation of the market for KOSPI 200 futures contracts (the representative stock market index of South Korea and one of the most widely traded futures in the world) using spoofing or faked trades.
- ***Chahal v. Credit Suisse Grp. AG, et al.* (S.D.N.Y.)**: Court-appointed co-lead counsel in securities class action alleging fraud and market manipulation of XIV Exchange Traded Note market.
- ***In re: Overstock Securities Litigation:* (D. Utah):** Court-appointed sole Lead Counsel in class action alleging materially false and misleading statements and omissions and engineering a market manipulation scheme during the Class Period of Overstock.com securities.

Mr. Eisenkraft served as a law clerk to the Honorable Judge Barrington D. Parker of the United States Court of Appeals for the Second Circuit. He is the author or co-author of numerous articles on legal issues in the securities and antitrust fields among other subjects.

COHENMILSTEIN

Powerful Advocates. Meaningful Results.

Mr. Eisenkraft attended Brown University, where he received a B.A., *magna cum laude* and Phi Beta Kappa, and graduated *cum laude* from Harvard Law School.

COHENMILSTEIN

Powerful Advocates. Meaningful Results.

Julie G. Reiser, Partner

Washington, DC

t: 202 408 4600
f: 202 408 4699
jreiser@cohenmilstein.com

Practice Areas

- Securities Litigation & Investor Protection

Admissions

- District of Columbia
- Washington

Education

- University Virginia School of Law, J.D., 1997
- Vassar College, B.A., With Honors, 1992

Julie Goldsmith Reiser is a Partner at Cohen Milstein and Co-Chair of the firm's Securities Litigation & Investor Protection group. Ms. Reiser's practice focuses on public pension plans, institutional investors, retirees and plan participants, representing them in high-stakes, complex litigation, including securities, ERISA, and antitrust litigation.

In 2021, *Law360* recognized Ms. Reiser as a "Titan of the Plaintiffs Bar," not long after citing her as one of the "25 Most Influential Women in Securities Law." *The National Law Journal* placed her among the "Elite Women of the Plaintiffs Bar" and, since 2018, Lawdragon has named her one of the leading 500 lawyers in America.

On October 2, 2020, Ms. Reiser was recognized by *The American Lawyer* as "Litigator of the Week," for the historic $310 million settlement *In re Alphabet Shareholder Derivative Litigation* (Sup. Crt. Cal., Santa Clara Cnty.), a shareholder derivative action, which establishes a framework for stockholders to hold boards of directors accountable for long-standing patterns of corporate mismanagement of sexual harassment, discrimination, and retaliation claims at their companies.

Ms. Reiser is highly regarded by clients, co-counsel, and opposing counsel for her tenacious advocacy, shrewd understanding of complex financial and economic issues, meticulous preparation, and dynamic leadership. Indeed, co-counsel and opposing counsel were quoted in *Law360*'s "Titans of the Plaintiffs Bar: Cohen Milstein's Julie Goldsmith Reiser" profile:

- *"I think [Ms. Reiser] is an excellent attorney. Very good in advocating in the courtroom and in settlement negotiations, a very good strategic thinker and a nice person."* Louise Renne, former City Attorney of San Francisco, founding partner of Renne Public Law Group, and co-counsel in Alphabet.
- Ms. Reiser is *"a very candid, trustworthy person"* and working with her and her co-counsel was a *"highlight of the case."* Boris Feldman, partner at Freshfields Bruckhaus Deringer LLP and opposing counsel in *Alphabet*.

In addition to *Alphabet* and the precedent-setting *Wynn Resorts Shareholder Derivative Action* (Eighth Jud. Dist. Crt., Clark Cnty., Nev.), which she led to a total $90 million settlement, Ms. Reiser has led litigation teams in several of the country's most complex class actions and landmark settlements, including a $500 million settlement related to Countrywide's issuance of mortgage-backed securities ("MBS") and the Fifth Circuit affirmation of an investor class in the BP securities fraud litigation, stemming from the 2010 Deepwater Horizon oil spill, which settled for $175 million.

Currently, Ms. Reiser is litigating the following notable matters:

- ***In re Pinterest Derivative Litigation* (N.D. Cal.):** Cohen Milstein, as Interim Lead Counsel, represents the Employees Retirement System of Rhode Island and other Pinterest shareholders in a consolidated shareholder derivative complaint against certain current officers and directors of Pinterest, including its Board Chairman and CEO, for breaches of fiduciary duty and other violations of Section 14(a) of the Exchange Act, relating to their alleged personal engagement in and facilitation of a systematic practice of illegal discrimination of employees on the basis of race and sex, from at least February 2018 through the present. As a result of this illegal misconduct, the Company's financial position, goodwill, and reputation among users has been harmed. Ms. Reiser is lead counsel in this litigation.
- ***Bank of America Corp. Stock Lending Markets Antitrust Lawsuit* (S.D.N.Y.):** Ms. Reiser represents Iowa PERS, Los Angeles County Employees Retirement Association, Orange County Employees Retirement System and Sonoma County Employees' Retirement Association in this ground-breaking lawsuit, in which plaintiffs allege collusion among six of the world's largest investment banks to prevent modernization of the securities lending market, a critical component of a strong economy.
- ***Public School Teacher' Pension and Retirement Fund of Chicago v. Bank of America Corporation, et al.* (S.D.N.Y.):** Cohen Milstein is Co-Lead Counsel in this lawsuit charging a number of the world's largest investment banks with conspiring to engineer and maintain a collusive and anti-competitive stranglehold over the interest rate swaps (IRS) market –one of the world's biggest financial markets. Ms. Reiser represents the Los Angeles County Employees Retirement Association.
- ***In re Valeant Pharmaceuticals International, Inc. Third-Party Payor Litigation* (D.N.J.):** Ms. Reiser represents a putative class of third-party payors arising from an alleged Racketeer Influenced and Corrupt Organization Act scheme perpetrated by Valeant, its top executives, and co-conspirators at affiliated specialty pharmacies to shield the company's drugs from competition, fraudulently inflate the prices of its products, and artificially boost sales at the expense of third party payors.

Ms. Reiser's successes include:

- ***L Brands, Inc. Derivative Litigation*:** Cohen Milstein, in partnership with the State of Oregon, the Oregon Public Employees Retirement Fund, and other shareholders, helped resolve allegations that officers and directors of L Brands, Inc., previous owners of Victoria's Secret, breached their fiduciary duties by maintaining ties with alleged sex offender and pedophile Jeffrey Epstein and fostering a culture of discrimination and misogyny at the company. Following a Delaware General Corporate Law Section 220 books and records demand and an extensive, proprietary investigation, L Brands and the now-standalone company, Victoria's Secret, agreed to stop enforcing non-disclosure agreements that prohibit the discussion of a sexual harassment claim's underlying facts; stop using forced arbitration agreements; implement sweeping reforms to their codes of conduct, policies and procedures related to sexual misconduct and retaliation; and to invest $45 million each, for a total of $90 million, in diversity, equity and inclusion initiatives and DEI Advisory Councils. Ms. Reiser led the Cohen Milstein team in this matter.

- ***In re Alphabet Shareholder Derivative Litigation* (Sup. Crt. Cal., Santa Clara Cnty.):** Cohen Milstein, as Co-Lead Counsel, represented Northern California Pipe Trades Pension Plan and Teamsters Local 272 Labor Management Pension Fund in a shareholder derivative lawsuit against the Board of Directors of Alphabet, Inc. Shareholders alleged that the tech giant's Board violated its fiduciary duty by enabling a double standard at Alphabet that allowed powerful executives to sexually harass and discriminate against women without consequence. On November 30, 2020, the court granted final approval of a historic settlement, including a $310 million commitment to fund diversity, equity, and inclusion initiatives at Alphabet-owned companies, and workplace and corporate governance reforms including limiting non-disclosure agreements and ending mandatory arbitration in sexual harassment, gender discrimination, and retaliation-related disputes. Ms. Reiser led this litigation.
- ***New York State Common Retirement Fund, et al. v. Stephen A. Wynn, et al.* (Eighth Jud. Dist. Crt., Clark Cnty., Nev.):** Cohen Milstein represented New York State Common Retirement Fund and the New York City Pension Funds as Lead Counsel in a derivative shareholder lawsuit against certain officers and directors of Wynn Resorts, Ltd., arising out of their failure to hold Mr. Wynn, the former CEO and Chairman of the Board, accountable for his longstanding pattern of sexual abuse and harassment of company employees. In March 2020, the Court granted final approval of a $90 million settlement in the form of cash payments and landmark corporate governance reforms, placing it among the largest, most comprehensive derivative settlements in history. Ms. Reiser led this litigation.
- ***NovaStar Mortgage Backed Securities Litigation* (S.D.N.Y.):** Cohen Milstein was Lead Counsel in this certified MBS class action. Ms. Reiser represented Iowa PERS, one of the class representatives. In March 2019, the U.S. District Court for the Southern District of New York granted final approval of a $165 million all-cash settlement, bringing this decade-long lawsuit, the last of 11 MBS class actions Cohen Milstein successfully handled, to conclusion.
- ***In re BP Securities Litigation* (S.D. Tex.):** Ms. Reiser represented the New York State Common Retirement Fund as Co-Lead Plaintiff in a securities class action filed in 2010, alleging that BP injured investors by intentionally downplaying the severity of the Deepwater Horizon oil spill and preventing investors from learning the magnitude of the disaster. Ms. Reiser took the lead in all aspects of this litigation: case development,

motion practice, oversight and implementation of discovery strategies, depositions, expert discovery and argument. After successfully arguing for class certification to the district court, Ms. Reiser presented plaintiffs' defense of that court's decision to the Fifth Circuit U.S. Court of Appeals, which affirmed the class. The case settled for $175 million a few weeks before trial was set to begin.

- ***Countrywide Mortgage Backed Securities Litigation* (C.D. Cal.):** Ms. Reiser represented the Iowa, Oregon and Orange County public retirement systems in class action litigation related to Countrywide's issuance of mortgage-backed securities, which culminated in a landmark $500 million settlement. Over the course of the litigation, Ms. Reiser argued on investors' behalf at the motion to dismiss stage. She also handled various arguments related to discovery disputes and oversaw merits and expert discovery. She took a majority of the fact depositions and was recognized for having teased a number of salient points from witnesses during the depositions. Ms. Reiser also took the lead in working with experts to maximize damages.
- ***Policemen's Annuity and Benefit Fund of the City of Chicago, et al. v. Bank of America, NA, et al.* (S.D.N.Y.):** Ms. Reiser developed and litigated this novel class action, challenging trustee inaction in preventing investor losses. She represented the Arkansas Public Employees Retirement System, IPERS and Chicago Laborers in the case, which settled for $69 million. Ms. Reiser worked with plaintiffs' statistician to develop a sampling methodology for testing whether mortgages were underwritten properly and with plaintiffs' economist in the bid for class certification and approach to damages. At the final hearing, Judge Katherine B. Forrest commended the investors' legal team: "This is a very, very good result for the plaintiffs … [and] is something of which plaintiff counsel can be proud."
- ***ERIC v. Read* (D. Or.):** Oregon became the first state in the nation to implement a defined contribution savings program for private sector employees who either work for companies that don't offer a retirement plan or aren't eligible to participate in their employer's retirement plan, called OregonSaves. In October 2017, the ERISA Industry Committee, a national group representing large businesses filed a lawsuit, arguing that the program is preempted by ERISA. Ms. Reiser, retained as outside counsel, successfully defended OregonSaves from ERISA challenges, resulting in a settlement in March 2018.

Ms. Reiser also maintains an active *pro bono* practice. Recent notable successes include:

- ***Vivian Englund v. World Pawn Exchange, LLC* (Cir. Crt., Coos Cnty., Or.):** Cohen Milstein successfully represented the estate of a Kirsten Englund in a wrongful death case of first impression in Oregon state court and nationally, addressing the legal liability for federally licensed firearms dealers involved in online straw sales. The landmark settlement (October 2018) establishes important legal precedent at the state and federal levels regarding gun dealer responsibility for online sales of firearms. Given the precedential significance of this lawsuit, Cohen Milstein was named to *The National Law*

COHENMILSTEIN

Powerful Advocates. Meaningful Results.

Journal's "2019 Pro Bono Hot List" and won Public Justice Foundation's "2019 Trial Lawyer of the Year – Finalist" award.

In addition, Ms. Reiser has represented plaintiffs in employment cases. In *Wade v. Kroger* (W.D. Ky.), she represented African American employees who received a $16 million settlement to resolve claims that the retailer Kroger had discriminated against them in pay and promotions. She was also involved in *Beck v. The Boeing Co.* (W. D. Wash.), a case alleging sex discrimination in compensation and promotions that settled for $72.5 million.

Ms. Reiser has twice been named a winner of the Burton Awards, placing her among the "finest law firm writers" in the nation. She was a winner of the Burton Awards in 2019, as a co-author of "INSIGHT: Holding Firearms Dealers Accountable for Online Straw Sales," *Bloomberg Law* (December 19, 2018), and in 2016 for "Pre-Dispute Arbitration Clauses: Taking the Alternative Out of Dispute Resolution," *Bloomberg BNA, Class Action Litigation Report* (December 11, 2015). After the publication of "Pre-Dispute Arbitration Clauses," Paul Bland, Executive Director of Public Justice wrote: "This is invaluable advocacy that takes industry-side advocacy and exposes its flaws and failings. I'm very glad to see this kind of very high-quality advocacy and critical thinking."

Ms. Reiser also is the author or co-author of "Boards Must Be Held Accountable for Sexual Harassment Scandals," *Financial Times* (January 1, 2020); "Event-Driven Litigation Defense," *Harvard Law School Forum on Corporate Governance and Financial Regulation* (May 23, 2019); "INSIGHT: Sandy Hook Decision Reins in Gun Industry Shield Law," *Bloomberg Law* (March 28, 2019); "The Critical ABCs of Financial Antitrust Litigation & Recovery Opportunities," an ISS Securities Class Actions Services White Paper (February 18, 2019): "Trends in ERISA Litigation in 2017," *Law360* (December 17, 2017); "Carefully Tailored ERISA Claims After *Amgen V. Harris*," *Law360* (January 25, 2017); "Omnicare: Negligence is the New Strict Liability When Pleading Omissions Under the Securities Act," *Bloomberg BNA, Corporate Law & Accountability Report* (April 10, 2015); the author of "Dodd Frank's Protections for Senior Citizens: An Important, Yet Insufficient Step," *University of Cincinnati Law Review,* Volume 81, Issue 2 (May 30, 2013); "Why Courts Should Favor Certification of MBS Actions," *ABA Securities Litigation Journal,* Volume 22, Number 1 (Fall 2011); and the co-author of "The Misapplication of American Pipe Tolling Principles," *ABA Securities Litigation Journal,* Volume 21, Number 2 (Winter 2011). She also co-authored "Opt-Outs: Making Private Enforcement of the Securities Laws Even Better," featured in the Winter/Spring 2008 edition of the *ABA's Class Action and Derivative Suit Committee Newsletter* and "Companies in the Cross Hairs: When Plaintiffs Lawyers Choose Their Targets, They Look for These Employment Practices," *The Legal Times* (February 21, 2005).

Ms. Reiser is a noted speaker, often called on to discuss important issues such pension system participation in class action litigation, the ABCs of antitrust litigation for investors, and trends in ERISA litigation.

Ms. Reiser attended Vassar College, graduating with honors, and earned her J.D. at the University of Virginia School of Law. She has served as a board member at Seattle Works and the Pacific Northwest Ballet.

COHENMILSTEIN

Powerful Advocates. Meaningful Results.

Emmy L. Levens, Partner

Washington, DC

t: 202.408.4600
f: 202.408.4699
elevens@cohenmilstein.com

Practice Areas

- Antitrust

Admissions

- District of Columbia
- Illinois

Education

- UCLA Law School, J.D., Order of the Coif, 2007
- University of Kansas, B.A., *with Honors*, 2004

Clerkships & Fellowships

- Law Clerk, U.S. Court of Appeals for the Seventh Circuit, 2007-2009

Emmy Levens is a Partner at Cohen Milstein and a member of the firm's Antitrust practice group. With over a decade of experience, Ms. Levens has particular expertise in complex antitrust litigation, class actions, and appellate litigation. She also plays a central role in helping the Antitrust practice evaluate potential cases and Chairs the firm's Summer Associate Committee.

Ms. Levens has been recognized by the legal industry for her exceptional work, including being named to *The National Law Journal's* 2021 "Elite Women of the Plaintiffs Bar," recognizing the top female litigators in the U.S., who "have demonstrated repeated success in cutting-edge work on behalf of plaintiffs," as well as *Bloomberg Law's* 2021 "They've Got Next: The 40 Under 40 – Mass Torts" and *Law360's* 2020 "Rising Stars – Class Action."

Currently, Ms. Levens is litigating the following notable matters:

- ***Flint Water Crisis Litigation* (E.D. Mich.):** On November 10, 2021, the Court granted final approval of a landmark $641.25 million settlement between Flint residents and businesses and multiple governmental defendants, including the State of Michigan, Michigan Department of Environmental Quality (DEQ), and individual defendants, including former Governor Rick Snyder, in this environmental toxic tort class action, affecting over 90,000 Flint residents and businesses. Litigation will continue against other defendants, including two private engineering firms, Veolia North America and Lockwood, Andrews & Newnam (LAN), both charged with professional negligence, and separate litigation against the U.S. Environmental Protection Agency will also continue. Cohen Milstein is Interim Co-Lead Class Counsel in this litigation. Ms. Levens oversees class strategy and manages all aspects of the litigation.
- ***Iowa Public Employees Retirement System et al. v. Bank of America Corp.* (S.D.N.Y.):** Cohen Milstein is co-counsel in this groundbreaking putative class action, in which investors

accuse Morgan Stanley, Goldman Sachs, Credit Suisse, UBS, J.P. Morgan, and other Wall Street banks of conspiring to thwart the modernization of and preserve their dominance over the $1.7 trillion stock loan market. Ms. Levens is one of the lead Antitrust partners in this suit.

Some of her past successes include:

- ***Pre-Filled Propane Tank Antitrust Litigation*** **(W.D. Mo.):** Cohen Milstein served as Co-Lead Counsel to Direct Purchasers in this price fixing class action against two of the largest distributors of propane exchange tanks. In June 2020, the court granted final approval of the $12.6 million settlement. Ms. Levens drafted the successful appellate brief argued before the Eighth Circuit *en banc*. The Court adopted Plaintiffs' articulation of the continuing violation doctrine and held that sales made pursuant to an anticompetitive agreement constitute new acts for purposes of determining the timeliness of a claim, thereby reviving Direct Purchasers' antitrust claims against distributors of pre-filled propane tanks. In January 2018, the U.S. Supreme Court refused to review the Eighth Circuit's ruling, allowing it to stand.
- ***Resistors Antitrust Litigation*** **(N.D. Cal.):** Cohen Milstein served as Interim Co-Lead Counsel for the direct purchasers of resisters, who accused the world's largest manufacturers of resistors of fixing prices. In November 2019, the court granted final approval of a $50.25 million settlement – a remarkable recovery, reflecting 33% - 57% of estimated single damages according to Plaintiffs' preliminary analysis. Estimated payments to class members would be an average payment of $46,850.64; a median payment of $768.39. Ms. Levens managed all aspects of this litigation.
- ***Allen vs. Dairy Farmers of America*** **(D. Vt.):** Cohen Milstein served as Lead Counsel for one of two subclasses of dairy farmers challenging anticompetitive conduct in the Northeast which resulted in lower prices paid to farmers. In April 2017 the Second Circuit Court of Appeals affirmed a $50 million settlement between plaintiffs and the remaining defendants, bringing the total settlement to more than $80 million, in addition to industry-changing equitable relief. Ms. Levens served as one of the principle attorneys litigating this matter since its inception.
- **Plasma-Derivative Protein Therapies Antitrust Litigation (N.D. Ill.):** Cohen Milstein served as Co-Lead Counsel for plaintiffs alleging that the two largest manufacturers of IVIG and Albumin – life-saving therapies derived from blood plasma – conspired to reduce the supply, and increase the prices, of these therapies. Ms. Levens played an active role in the litigation, helping to obtain settlements totaling $128 million for hospitals and other direct purchasers.
- ***Bulk Bleach Litigation*** **(D.S.C.):** Ms. Levens served as one of the key attorneys at Cohen Milstein representing a class of municipalities and other direct purchasers of bulk bleach in a case alleging that the two dominant manufacturers of bulk bleach in the Carolina's engaged in an illegal market allocation agreement. After successfully defeating multiple motions to dismiss, class counsel obtained a settlement that satisfied nearly all of the class's damages. In approving the settlement, Judge Gergel complimented

COHENMILSTEIN

Powerful Advocates. Meaningful Results.

counsel, stating that the, "whole case has been, I think, very professionally handled, skillfully handled."

Ms. Leven's recent pro bono work includes:

- ***Access to Education Class Action*** **(Circ. Crt., Prince George's Cnty.):** On June 12, 2019, Cohen Milstein, the ACLU of Maryland, and the Howard University School of Law Civil Rights Clinic filed an education discrimination class action and motion for a temporary restraining order against the Prince George's County School Board, seeking to declare its charging of fees for summer school violates the Maryland Constitution (which requires the state to provide a free education), causing serious, irreparable harm to students in the county who cannot afford the fees.

Ms. Levens was also a member of the Apple price-fixing litigation team recognized as "Legal Lions" by *Law360*.

In addition to her work at the Cohen Milstein, Ms. Levens has served as an adjunct Professor at Georgetown School of Law and is a Board member and Secretary of Global Playground, a nonprofit that builds schools in the developing world. She recently co-authored an article entitled, "Heightened Ascertainability Requirement Disregards Rule 23's Plain Language," which appeared in the Spring, 2016 issue of *Antitrust* magazine.

Prior to joining the firm, Ms. Levens worked as a staff law clerk at the U.S. Court of Appeals for the Seventh Circuit.

Ms. Levens attended the University of Kansas, graduating with honors, and earned her J.D. at UCLA Law School, graduating Order of the Coif. While at law school, Ms. Levens served as the Managing Editor for the *UCLA Journal of Environmental Law and Policy,* Director of the Downtown Legal Housing Clinic, and President of Moot Court.

COHENMILSTEIN

Powerful Advocates. Meaningful Results.

Daniel McCuaig, Partner

Washington, DC

t: 202.408.4600
f: 202.408.4699
dmccuaig@cohenmilstein.com

Practice Areas

- Antitrust

Admissions

- District of Columbia

Education

- Harvard Law School, J.D., *cum laude*, 2000
- The George Washington University, B.A. *summa cum laude*, Phi Beta Kappa, 1995

Clerkships & Fellowships

- Law Clerk, the Hon. Algenon L. Marbley, U.S. District Court, Southern District of Ohio (2000 – 2001)

Dan McCuaig is a Partner at Cohen Milstein and a member of the firm's Antitrust practice group. In this role, Mr. McCuaig represents a broad range of plaintiffs in civil litigation, with a focus on class actions and antitrust litigation. He regularly is sought to speak on antitrust and class certification panels and has been repeatedly recognized by Lawdragon as one of the nation's "500 Leading Plaintiff Financial Lawyers."

Currently, Mr. McCuaig is litigating the following notable matters:

- ***Iowa Public Employees Retirement System et al. v. Bank of America Corp.* (S.D.N.Y.):** Cohen Milstein is co-counsel in this groundbreaking putative class action, in which investors accuse Morgan Stanley, Goldman Sachs, Credit Suisse, and other Wall Street investment banks of conspiring to thwart the modernization of, and preserve their dominance over, the $1.7 trillion stock loan market.
- ***In Re: Da Vinci Surgical Robot Antitrust Litigation* (N.D. Cal.):** On September 24, 2021, the Court appointed Cohen Milstein Interim Co-Lead Counsel in this consolidated antitrust class action against Intuitive Surgical, Inc. Plaintiffs allege that Intuitive engages in an anticompetitive scheme under which it ties the purchase or lease of its must-have, market-dominating da Vinci surgical robot to the additional purchases of (i) robot maintenance and repair services and (ii) unnecessarily large numbers of the surgical instruments, known as EndoWrists, used to perform surgery with the robot—a violation of Sections 1 and 2 of the Sherman Act.
- ***Pacific Steel Group v. Commercial Metals Company* (N.D. Cal.):** Cohen Milstein represents Pacific Steel Group, a steel rebar fabricator, in challenging the lawfulness of an agreement extracted by one of the world's largest steel companies (CMC) from the world's only manufacturer of steel rebar micro mills to refuse to build a micro mill for Pacific Steel in any location that could threaten CMC's rebar monopoly in Southern California or

COHENMILSTEIN

Powerful Advocates. Meaningful Results.

otherwise allow Pacific Steel to become a more formidable competitor in the downstream rebar fabrication market.

Immediately prior to joining Cohen Milstein, Mr. McCuaig was a trial attorney in the Antitrust Division at the U.S. Department of Justice for more than a decade, where he led investigation and litigation teams in both criminal and civil matters related to price fixing, bid rigging, anticompetitive mergers, and other antitrust law violations.

As a criminal prosecutor at the DOJ, Mr. McCuaig led the investigation and prosecution of antitrust, fraud, and obstruction of justice claims against corporations and individuals. He was the principal trial lawyer in related plea hearings, sentencings, and before grand juries, and successfully generated significant charges and guilty pleas. Even while carrying out his prosecutorial duties, Mr. McCuaig continued to provide his expertise on major Antitrust Division civil actions, such as its successful challenge to the proposed merger between Anthem and Cigna—in which McCuaig cross-examined Anthem expert economist Robert Willig at trial.

While a civil litigation trial lawyer at the DOJ, Mr. McCuaig oversaw the government's investigation into the e-books price fixing conspiracy litigated in *In Re Electronic Books Antitrust Litigation* (S.D.N.Y.), involving Apple and five major publishers, and played a principal role in the government's successful trial of Apple. Leading up to that trial, Mr. McCuaig coordinated with foreign enforcement agencies, 33 state attorneys general, and private plaintiffs' counsel, and negotiated consent decrees with all publisher defendants. More generally, Mr. McCuaig investigated competitive effects of proposed mergers in media, sports, real estate, and tangential industries, as well as potential anticompetitive effects of non-merger activity in the same industries, and negotiated divestitures and consent decrees to remedy anticompetitive aspects of mergers and non-merger activities.

Prior to his work with the DOJ, Mr. McCuaig was counsel at a prestigious international white collar and corporate defense firm, where, in addition to civil antitrust defense work, he focused on telecommunications disputes before the FCC, state public service commissions, and state and federal courts.

Mr. McCuaig is the co-author of *Telecommunications Convergence Overview* (with William T. Lake and Thomas P. Olson), 698 PLI/Pat 9 (May 2002), and the author of *Halve the Baby: An Obvious Solution to the Troubling Use of Trademarks as Metatags,* 18 J. Marshall J. Computer & Info. L. 643 (Spring 2000).

Mr. McCuaig received his B.A., *summa cum laude,* from The George Washington University. He is a member of Phi Beta Kappa. He received his J.D., *cum laude,* from Harvard Law School, where he was a Senior Editor and the Treasurer of the *Harvard Negotiation Law Review.*

Mr. McCuaig was a judicial clerk to The Honorable Algenon L. Marbley of the United States District Court for the Southern District of Ohio (Columbus).

COHENMILSTEIN

Powerful Advocates. Meaningful Results.

Robert W. Cobbs, Partner

Washington, DC

t: 202.408.4600
f: 202.408.4699
rcobbs@cohenmilstein.com

Practice Areas

- Antitrust

Admissions

- District of Columbia
- New York

Education

- Amherst College, B.A., *magna cum laude* with distinction, 2006
- Yale Law School, J.D., 2013

Clerkships & Fellowships

- Hon. Pierre N. Leval, United States Court of Appeals for the Second Circuit
- Hon. J. Rodney Gilstrap, United States District Court for the Eastern District of Texas

Robert W. Cobbs is a Partner at Cohen Milstein and a member of the firm's Antitrust practice group.

Currently, Mr. Cobbs is litigating the following notable matters:

- ***In re Interest Rate Swaps Antitrust Litigation*** **(S.D.N.Y.):** Cohen Milstein serves as co-lead counsel in a groundbreaking antitrust class action representing the Public School Teachers' Pension and Retirement Fund of Chicago and a proposed buy-side investor class against numerous Wall Street investment banks. The class alleges that the defendants conspired to prevent class members from trading IRS on modern electronic trading platforms and from trading with each other, all to protect the banks' trading profits from inflated bid/ask spreads.
- ***Stock Lending Antitrust Litigation*** **(S.D.N.Y.):** Cohen Milstein serves as co-counsel in a groundbreaking antitrust class action alleging that major investment banks conspired to prevent the stock lending market from evolving by boycotting and interfering with various platforms and services designed to increase transparency and reduce costs in the stock lending market.
- **ExxonMobil - Aceh, Indonesia (D.D.C.):** Cohen Milstein is representing eleven Indonesian citizens in a cross-border human rights lawsuit involving allegations of physical abuse, sexual assault, other forms of torture, and murder committed by Indonesian soldiers who were hired by ExxonMobil Corporation.

Mr. Cobbs' recent successes include:

- ***Google Wi-Fi Litigation*** **(N.D. Cal.):** Cohen Milstein was co-lead counsel in a nationwide class action alleging that Google violated the Wiretap Act when its Street View vehicles secretly collected payload data from unencrypted Wi-Fi networks. Plaintiffs defeated a motion to dismiss raising novel Wiretap Act issues, and the ruling was affirmed on interlocutory appeal to the Ninth Circuit. The court approved a $13 million settlement in March 2020.

- ***Anadarko Basin Oil and Gas Lease Antitrust Litigation* (W.D. Okla.):** Cohen Milstein was co-lead counsel for plaintiffs in a class action alleging that Chesapeake Energy, SandRidge Energy and a former executive of both companies conspired to rig bids for leases of land held by private landowners in parts of Oklahoma and Kansas. This litigation followed the U.S. Department of Justice's early 2016 indictment of a co-founder and former CEO of Chesapeake Energy for allegedly participating in this bid-rigging conspiracy. Plaintiffs alleged that Defendants illegally conspired to stabilize and depress the price of royalty and bonus payments paid to landowners in the Anadarko Basin oil and gas province — a massive geological formation holding natural gas and oil deposits that includes large parts of Oklahoma and Kansas. Pursuant to this conspiracy, Plaintiffs alleged that Defendants communicated about and agreed on prices, allocated particular geographic areas between themselves, and rigged bids for leases of land, lowering acquisition prices across the region and thereby harming the proposed class of landowners. In April 2019, the court granted final approval of a $6.95 million settlement.

Prior to joining Cohen Milstein, Mr. Cobbs clerked for the Hon. Pierre N. Leval, United States Court of Appeals for the Second Circuit; and for the Hon. J. Rodney Gilstrap, United States District Court for the Eastern District of Texas.

Mr. Cobbs graduated from Amherst College with a B.A. in English and Russian, *magna cum laude* with distinction, and received his J.D. from Yale Law School. During law school, he served as a Notes Editor of the *Yale Law Journal* and as a Submissions Editor of the *Yale Journal on Regulation*.

COHENMILSTEIN

Powerful Advocates. Meaningful Results.

Matthew W. Ruan, Of Counsel

New York, NY

t: 212.838.7797
f: 212.838.7745
mruan@cohenmilstein.com

Practice Areas

- Antitrust

Admissions

- California
- Minnesota
- New York

Education

- University of Michigan Law School, J.D., 2003
- The University of Chicago, A.B., with Honors, 2000

Clerkships & Fellowships

- Judicial Extern, Hon. Blanche M. Manning, U.S. District Court for the Northern District of Illinois

Matthew W. Ruan is Of Counsel at Cohen Milstein and a member of the firm's Antitrust practice group. In this role, Mr. Ruan represents a broad range of individuals, businesses, and unions in civil litigation, with a focus on multi-district class actions and antitrust litigation.

Mr. Ruan is currently litigating the following matters:

- ***Stock Lending Litigation* (S.D.N.Y.):** Cohen Milstein and co-counsel filed a putative class action on August 17, 2017 in the Southern District of New York on behalf of Iowa Public Employees Retirement System and other investors, alleging collusion among six of the world's largest investment banks to prevent modernization of the $1.7 trillion stock loan market. Plaintiffs allege that Bank of America, Credit Suisse, Goldman Sachs, JP Morgan, Morgan Stanley, and UBS conspired to overcharge investors and maintain the power they hold over the stock loan market, obstructing multiple efforts to create competitive electronic exchanges and enhance price transparency that would benefit both stock lenders and borrowers.
- ***In re Automotive Parts Antitrust Litigation* (E.D. Mich.):** Cohen Milstein is representing a putative class of direct purchasers alleging price-fixing conspiracy against manufacturers of automotive bearings, windshield wiper systems, occupant safety systems, and various other automotive parts.

Mr. Ruan was involved in the following high-profile matters:

- ***Sutter Health Antitrust Litigation* (Sup. Crt., San Fran. Cnty., Cal.):** On August 27, 2021, the Court granted final approval of a $575 million eve-of-trial settlement, which includes significant injunctive relief, in this closely-watched antitrust class action against Sutter Health, one of the largest healthcare providers in California, for restraining hospital competition through anticompetitive contracting practices with insurance companies. Cohen Milstein was one of five firms that litigated this case since 2014 on behalf of a certified class of self-insured employers and union trust funds. California's Attorney General joined the suit in March 2018.

Prior to joining Cohen Milstein, Mr. Ruan was an associate attorney at Berman DeValerio. While there, he focused on antitrust, securities, and consumer class actions. He also was an associate at Heins Mills & Olson, PLC and also served as a judicial extern for the Hon. Blanch M. Manning of the U.S. District Court for the Northern District of Illinois.

Mr. Ruan graduated from the University of Chicago, with Honors, with an A.B. in Anthropology in 2000. He received his J.D. from the University of Michigan Law School in 2003. During law school, Mr. Ruan served as the Associate Editor of the *Michigan Journal of International Law*.

COHENMILSTEIN

Powerful Advocates. Meaningful Results.

Christopher J. Bateman, Associate

New York, NY

t: 212 838 7797
f: 212 838 7745
cbateman@cohenmilstein.com

Practice Areas

- Antitrust

Admissions

- New York

Education

- Harvard Law School, J.D., *cum laude*, 2014
- Dartmouth College, B.A., *cum laude*, 2005

Clerkships & Fellowships

- Law Clerk, the Hon. Naomi Reice Buchwald, U.S. District Court for the Southern District of New York

Christopher Bateman is an Associate at Cohen Milstein, and a member of the firm's Antitrust practice group. In this role, Mr. Bateman represents a broad range of individuals and businesses in civil litigation, with a focus on multi-district class actions and antitrust litigation. In 2021, Mr. Bateman was recognized as a New York Metro Rising Star by Super Lawyers.

Mr. Bateman is currently working on the following high-profile matters:

- ***In re Interest Rate Swaps Antitrust Litigation* (S.D.N.Y.):** Cohen Milstein serves as co-lead counsel and represents the Public School Teachers' Pension and Retirement Fund of Chicago and other proposed buy-side investor class members in this ground breaking putative antitrust class action against numerous Wall Street investment banks. Plaintiffs allege that the defendants conspired to prevent class members from trading IRS on modern electronic trading platforms and from trading with each other, all to protect the banks' trading profits from inflated bid/ask spreads.
- ***Iowa Public Employees' Retirement System, et al. v. Bank of America Corp. et al.* (S.D.N.Y.):** Cohen Milstein is representing Iowa Public Employees Retirement System and other investors who allege that six of the world's largest investment banks, including Bank of America, Credit Suisse, Goldman Sachs, JP Morgan, Morgan Stanley, and UBS, conspired together to prevent the modernization of the $1.7 trillion stock lending market in order to maintain control over a critical component of a strong economy.

Before joining Cohen Milstein, Mr. Bateman was a law clerk for the Honorable Naomi Reice Buchwald, U.S. District Court for the Southern District of New York. Before that, he was a litigation attorney at a distinguished global law firm, where he worked with clients in the financial services and energy sectors.

Mr. Bateman received his B.A., *cum laude, High Honors,* from Dartmouth College, where he was a Rufus Choate Scholar. He received his J.D., *cum laude,* from Harvard Law School, where he received Dean's Scholar awards in Civil Procedure and in Federal Courts and the Federal System. While in law school, Mr. Bateman was an Article Selection Editor for the *Harvard Civil Rights-Civil Liberties Law Review.* He is the co-author of "Toward Greener FERC Regulation of the Power Industry," *38 Harvard Environmental Law Review 275 (2014)*.

While attending law school, Mr. Bateman was a legal intern at the Environmental Defense Fund. Before law school, Mr. Bateman was an editorial associate at *Vanity Fair* for several years, where he wrote about politics, civil rights, culture, and environmental issues, and edited feature articles.

COHENMILSTEIN

Powerful Advocates. Meaningful Results.

David O. Fisher, Associate

New York, NY

t: 212.838.7797
f: 212.838.7745
dfisher@cohenmilstein.com

Practice Areas

- Antitrust

Admissions

- New York
- Texas

Education

- The University of Texas School of Law, J.D., with Honors, 2015
- The University of Texas at Austin, B.A., with High Honors, 2012

Clerkships & Fellowships

- Law Clerk, the Hon. Paul B. Matey, U.S. Court of Appeals for the Third Circuit (2019)
- Law Clerk, the Hon. Thomas I. Vanaskie, U.S. Court of Appeals for the Third Circuit (2018-2019)
- Law Clerk, the Hon. Randy Crane, U.S. District Court, Southern District of Texas (2015 – 2017)

David O. Fisher is an Associate at Cohen Milstein and a member of the firm's Antitrust practice group. Mr. Fisher represents a broad range of individuals and businesses in civil litigation, with a focus on multi-district class actions and antitrust litigation.

Prior to becoming an Associate at Cohen Milstein, Mr. Fisher served as a Law Clerk for the Honorable Paul B. Matey of the United States Court of Appeals for the Third Circuit and for the Honorable Thomas I. Vanaskie of the United States Court of Appeals for the Third Circuit.

Earlier, Mr. Fisher was a Staff Attorney for the United States Court of Appeals for the Fourth Circuit and a Law Clerk for the Honorable Randy Crane of the United States District Court for the Southern District of Texas.

Mr. Fisher's current cases include:

- ***Stock Lending Antitrust Litigation* (S.D.N.Y.):** Cohen Milstein is co-leading an antitrust class action alleging that major investment banks conspired to prevent the stock lending market from evolving by boycotting and interfering with various platforms and services designed to increase transparency and reduce costs in the stock lending market.

- ***In re Tracleer Antitrust Litigation* (D. Md.):** Cohen Milstein is representing the City of Baltimore and other plaintiffs who allege that Defendant Actelion engaged in an anticompetitive scheme to withhold samples of its life-saving pulmonary arterial hypertension medication from would-be rivals, under the guise of the REMs program, which conduct ultimately delayed generic competition.

- ***Center for Reproductive Rights v. Department of Health and Human Services* (D.D.C.):** Cohen Milstein currently represents the Center in FOIA litigation against the HHS, in which the Center seeks budget and staffing documents of the Conscience and Religious Freedom Division ("CRFD") of the

COHENMILSTEIN

Powerful Advocates. Meaningful Results.

HHS's Office for Civil Rights ("OCR") and information related to HHS's use of HIPAA enforcement funds under the Trump Administration.

Mr. Fisher earned his B.A., with High Honors, in the Plan II Honors Program at the University of Texas at Austin. He earned his J.D., with Honors, from the University of Texas School of Law. During law school, Mr. Fisher was an Articles and Notes Editor for the *Texas International Law Journal* and a Symposium Director for the *Texas Environmental Law Journal*.

Mr. Fisher's publications include: "The U.S.-Mexico Border Wall and the Case for 'Environmental Rights,'" 50 Tex. *International Law Journal* 145 (2015).

Mr. Fisher is fluent in Spanish and proficient in Portuguese.

COHENMILSTEIN

Powerful Advocates. Meaningful Results.

Robert Dumas, Staff Attorney

New York, NY

t: 212.838.7797
f: 212.838.7745
rdumas@cohenmilstein.com

Practice Areas

- Securities Litigation & Investor Protection

Admissions

- New York

Education

- Cornell Law School, J.D., 1996
- State University of New York at Albany, B.A., 1992

Robert Dumas is a Staff Attorney at Cohen Milstein and a member of the Securities Litigation & Investor Protection Practice Group. In this role, Mr. Dumas is engaged in document discovery and review and in preparing the attorneys in deposing witnesses. Since joining the firm in 2014, he has worked on some of the most important mortgage backed securities (MBS) litigations to emerge from the financial crisis.

Prior to joining Cohen Milstein, Mr. Dumas practiced at a leading plaintiff firm, litigating securities fraud matters, and then later at a smaller plaintiff firm, where he helped litigate the In re IPO Securities Litigation, in which investors accused the leading investment banks of rigging IPOs during the 1990s tech bubble; after nearly a decade of legal wrangling, a $586 million settlement was reached. Earlier, he practiced at a leading intellectual property and trademark law firm, where he defended trademark matters for an international clothing manufacturer.

Currently, Mr. Dumas is helping litigate the following matters:

- ***In re Interest Rate Swaps Market Manipulation Litigation* (S.D.N.Y.):** Cohen Milstein is court appointed Co-Lead Counsel in this groundbreaking putative class action, charging 12 Wall Street banks with conspiring to engineer and maintain a collusive and anti-competitive stranglehold over the interest rate swaps market – one of the world's biggest financial markets.
- ***Stock Lending Antitrust Litigation* (S.D.N.Y.):** Cohen Milstein is co-leading an antitrust class action alleging that major investment banks conspired to prevent the stock lending market from evolving by boycotting and interfering with various platforms and services designed to increase transparency and reduce costs in the stock lending market.

He helped successfully litigate the following notable matters:

- ***NovaStar MBS Litigation* (S.D.N.Y.):** On March 8, 2019, the Court granted final approval to a $165 million settlement in connection with losses from securities issued by NovaStar Mortgage Inc., a major subprime lender prior to the housing crisis, and several top Wall Street banks.

- ***HEMT MBS Litigation*** **(S.D.N.Y.):** $110 million settlement with Credit Suisse. Cohen Milstein was lead counsel in a case alleging Credit Suisse and its affiliates sold toxic securities to pension fund investors. Mr. Dumas was deeply involved in document discovery and working on motions, and he played a lead role in preparing the Rule 56.1 statement.

Mr. Dumas graduated from the State University of New York at Albany with a B.A. in History and received his J.D. from Cornell Law School. During law school, he served as an Editor of the *Journal of Law and Public Policy*.

COHENMILSTEIN

Powerful Advocates. Meaningful Results.

Nada S. Sulaiman, Staff Attorney

Washington, DC

t: 202 408 4600
f: 202 408 4699
nsulaiman@cohenmilstein.com

Practice Areas

- Antitrust

Admissions

- District of Columbia

Education

- Villanova University School of Law, J.D., *cum laude,* 1993
- George Washington University, B.A., *magna cum laude,* 1990

Nada S. Sulaiman is a Staff Attorney at Cohen Milstein and a member of the Antitrust practice group. In this role, she assists in discovery and evidentiary-related aspects of litigation and deposition preparation.

Prior to joining Cohen Milstein, Mr. Sulaiman was an associate and staff attorney at two highly regarded defense law firms in the area of antitrust litigation.

Ms. Sulaiman's case work includes the following high-profile matters:

- ***In re Interest Rate Swaps Market Manipulation Litigation* (S.D.N.Y.):** Cohen Milstein is court appointed Co-Lead Counsel in this groundbreaking putative class action, charging 12 Wall Street banks with conspiring to engineer and maintain a collusive and anti-competitive stranglehold over the interest rate swaps market – one of the world's biggest financial markets.
- ***Stock Lending Antitrust Litigation* (S.D.N.Y.):** Cohen Milstein is co-leading an antitrust class action alleging that major investment banks conspired to prevent the stock lending market from evolving by boycotting and interfering with various platforms and services designed to increase transparency and reduce costs in the stock lending market.
- ***Sutter Health Antitrust Litigation* (Sup. Crt., San Fran. Cnty., Cal.):** On August 27, 2021, the Court granted final approval of a $575 million eve-of-trial settlement, which includes significant injunctive relief, in this closely-watched antitrust class action against Sutter Health, one of the largest healthcare providers in California, for restraining hospital competition through anticompetitive contracting practices with insurance companies. Cohen Milstein was one of five firms that litigated this case since 2014 on behalf of a certified class of self-insured

employers and union trust funds. California's Attorney General joined the suit in March 2018.

Outside of the practice of law, Ms. Sulaiman serves as Board Member of the Friends of the Arlington Public Library.

Ms. Sulaiman is a graduate of George Washington University, where she received a B.A., *magna cum laude,* in International Affairs. She earned her J.D., *cum laude,* from Villanova University.

COHENMILSTEIN

Powerful Advocates. Meaningful Results.

Kamilah R. Williams, Staff Attorney

Washington, DC

t: 202.408.4600
f: 202.408.4699
kwilliams@cohenmilstein.com

Practice Areas

- Antitrust

Admissions

- District of Columbia
- Maryland

Education

- Catholic University of America-Columbus School of Law, J.D., 2001
- Salisbury State University, B.S., 1996

Kamilah Williams is a Staff Attorney at Cohen Milstein and a member of the firm's Antitrust practice. In this role, Ms. Williams assists in discovery and evidentiary-related aspects of litigation and deposition preparation.

Prior to joining Cohen Milstein, Ms. Williams was a staff attorney at a highly regarded global defense law firm, where she organized and analyzed, among other things, custodial documents regarding antitrust violations, second requests, state and federal investigations, fraud, and various class actions, as well as conducted deposition, trial, hearing, merger and settlement preparations.

Ms. Williams is currently involved in the following high-profile litigation:

- ***In re Interest Rate Swaps Market Manipulation Litigation* (S.D.N.Y.):** Cohen Milstein is court appointed Co-Lead Counsel in this groundbreaking putative class action, charging 12 Wall Street banks with conspiring to engineer and maintain a collusive and anti-competitive stranglehold over the interest rate swaps market – one of the world's biggest financial markets.
- **Stock Lending Antitrust Litigation (S.D.N.Y.):** Cohen Milstein is co-leading an antitrust class action alleging that major investment banks conspired to prevent the stock lending market from evolving by boycotting and interfering with various platforms and services designed to increase transparency and reduce costs in the stock lending market.

Williams earned her B.A. from Salisbury State University and her J.D. from Catholic University of America-Columbus School of Law.

While attending law school, Ms. Williams was a student attorney at Catholic University's Columbus Community Legal Services, where she provided legal advice and counsel to disadvantaged individuals and families regarding domestic violence, adoption, special education issues, child support, disabilities and veteran claims.

COHENMILSTEIN

Powerful Advocates. Meaningful Results.

David Kirschner, Staff Attorney

Washington, DC

t: 202 408 4600
f: 202 408 4699
dkirschner@cohenmilstein.com

Practice Areas

- Antitrust

Admissions

- District of Columbia
- New York

Education

- Benjamin N. Cardozo School of Law, J.D., 1995
- University of Chicago, B.A.,1986

David Kirschner is a Staff Attorney at Cohen Milstein and a member of the firm's Antitrust practice group. In this role, Mr. Kirschner conducts and manages discovery and other evidentiary-related projects for antitrust investigations and class action lawsuits.

Mr. Kirschner has extensive discovery experience in antitrust litigation and other types of highly-complex litigation. He has worked on cases involving a broad range of industries including: financial services; pharmaceuticals; healthcare; and telecommunications. Mr. Kirschner also has experience responding to Congressional and federal agency investigations, including: the U.S. Department of Justice; Federal Communications Commission; U.S. Federal Trade Commission; and U.S. Securities and Exchanges Commission.

Prior to joining Cohen Milstein, Mr. Kirschner was a senior staff attorney at a notable global defense law firm. He also worked as an associate at a highly regarded Washington, D.C.-based telecommunications law firm, where he represented wireline and wireless telecommunications providers as well as innovative technology companies bringing new products and services to market. Mr. Kirschner began his legal career as an Attorney-Advisor at the Federal Communications Commission, where he worked on wireless and wireline telecommunications issues.

Mr. Kirshner received his B.A. from University of Chicago. He earned his J.D. from Benjamin N. Cardozo School of Law, where he was the Editor-in-Chief of the *Cardozo Arts & Entertainment Law Journal.*

COHENMILSTEIN

Powerful Advocates. Meaningful Results.

Kalpish K. Mehta, Staff Attorney

Washington, DC

t: 202.408.4600
f: 202.408.4699
kmehta@cohenmilstein.com

Practice Areas

- Antitrust

Admissions

- District of Columbia

Education

- Brooklyn Law School, J.D., 2002
- Santa Clara University, B.S., *cum laude*, 1997

Kalpish K. Mehta is a Staff Attorney at Cohen Milstein and a member of the Antitrust practice group. In this role, he assists in discovery and evidentiary-related aspects of litigation and deposition preparation.

Mr. Mehta has extensive discovery experience in antitrust class action litigation, including Department of Justice Antitrust Division and Federal Trade Commission investigations.

Mr. Mehta's case work in the Antitrust practice group includes the following:

- ***Sutter Health Antitrust Litigation*** **(Sup. Crt., San Fran. Cnty., Cal.):** On August 27, 2021, the Court granted final approval of a $575 million eve-of-trial settlement, which includes significant injunctive relief, in this closely-watched antitrust class action against Sutter Health, one of the largest healthcare providers in California, for restraining hospital competition through anticompetitive contracting practices with insurance companies. Cohen Milstein was one of five firms that litigated this case since 2014 on behalf of a certified class of self-insured employers and union trust funds. California's Attorney General joined the suit in March 2018.
- ***Stock Lending Litigation*** **(S.D.N.Y.):** Cohen Milstein and co-counsel filed a putative class action on August 17, 2017 in the Southern District of New York on behalf of Iowa Public Employees Retirement System and other investors, alleging collusion among six of the world's largest investment banks to prevent modernization of the $1.7 trillion stock loan market. Plaintiffs allege that Bank of America, Credit Suisse, Goldman Sachs, JP Morgan, Morgan Stanley, and UBS conspired to overcharge investors and maintain the power they hold over the stock loan market, obstructing multiple efforts to create competitive electronic exchanges and enhance price transparency that would benefit both stock lenders and borrowers.

Mr. Mehta served in the United States Army. Prior to military service, he worked in variety of private practice settings. Mr. Mehta's litigation experience includes medical malpractice and criminal defense.

Mr. Mehta attended Santa Clara University, graduating *cum laude* with a B.S. in Accounting. He earned his J.D. from Brooklyn Law School.

EXHIBIT 4

epiq

Epiq Class Action and Claims Solutions CV

2022

10300 SW Allen Blvd, Beaverton, OR 97005
www.epiqglobal.com

Epiq is a leading class action settlement administrator delivering best-in-class people, technology and service for class action administration matters anywhere in the world—regardless of size or complexity.

History:

Epiq has been administering settlements since 1993, including settlements of class actions, mass tort litigations, Securities and Exchange Commission enforcement actions, Federal Trade Commission disgorgement actions, insurance disputes, bankruptcies, and other major litigation. Epiq has administered thousands of settlements, including some of the largest and most complex cases ever settled.

Epiq's class action case administration services include coordination of all notice requirements, design of direct-mail notices, establishment and implementation of notice fulfillment services, coordination with the United States Postal Service ("USPS"), electronic noticing, notice website development and maintenance, dedicated phone lines with recorded information and/or live operators, receipt and processing of opt-outs, claims database management, claim adjudication (paper and electronic), funds management, and award calculations and distribution services (both traditional checks and electronic payments). Epiq works with the settling parties, the Court, and the Class Members in a neutral facilitation role to implement administration services based on the negotiated terms of a settlement.

Through Hilsoft Notifications, our global provider of legal noticing services, we provide superior notice plan design, implementation, oversight, and communications for class action, mass tort, and bankruptcy proceedings. Hilsoft Notifications has been retained by defendants and/or plaintiffs on more than 300 cases, including more than 30 MDL cases, with notices appearing in more than 53 languages and in almost every country, territory and dependency in the world.

Epiq also has a Mass Tort division, which offers claimant communication support, medical record retrieval and review, plaintiff fact sheet fulfillment, settlement document fulfillment, lien resolution and fund administration and payments.

Strategically located:

- 11 dedicated offices providing project management and operational support including, New York City, New York; Beaverton, Oregon; Dublin, Ohio; Seattle, Washington; Tampa, Florida; Phoenix, Arizona; Tallahassee, Florida, London UK, Memphis TN and Ottawa and Waterloo, Ontario.

- 3 state-of-the-art full-service mail, print, and contact centers in Beaverton, Oregon, Memphis, TN and Dublin, Ohio.

- 2,670 contact center seats across all locations.

Epiq has been retained on some of the highest profile cases in history:

In re: Payment Card Interchange Fee and Merchant Discount Antitrust Litigation This $6B+ settlement is one of the largest antitrust class action settlements of all time. Epiq received roughly 80 billion rows of data with 163 types of data columns in 180 distinct files. The aggregated data set is over 110 terabytes and is hosted in a PCI-compliant environment. Over a five-month period this data was used to generate 21 million settlement notice mailings. This settlement is currently on appeal and therefore the claims process has not yet begun. However, in order to efficiently handle the anticipated claim volume, we implemented a pre-registration process that allows merchants to provide information to expedite the claims process prior to claim filing.

In re: Oil Spill by the Rig "Deepwater Horizon" Prior to settlement, Epiq acted as a shared database manager for the litigation, collecting data from plaintiffs' counsel, defense counsel, the Gulf Coast Claims Facility, and the court to create an aggregated system of record to manage all plaintiff data. Responsibilities included data intake and processing of all new forms filed on PACER and LexisNexis File & ServeXpress, loading partially complete data lists, identifying exceptions and mismatches and resolving missing data, duplicates and incorrect information for the parties. Epiq's legal noticing division, Hilsoft Notifications, was then appointed as the notice administrator for both the $7.8 billion economic damages and medical benefits settlements. Across a condensed six week period, Hilsoft ran notices nationally and locally in more than 2,000 print publications. Approximately 10,000 television and radio spots aired across 26 media markets stretching from Houston to Miami. In addition to English, notices appeared in Spanish and Vietnamese. It is estimated that more than 95% of all adults living in the Gulf Area and more than 83% of all adults in the United States had an opportunity to see the notice. In total, the notice effort was one of the largest ever undertaken in a class action settlement.

In re: Takata Airbag Products Liability Litigation Massive individual notice mailing to over 59 million class members with Toyota, Mazda, Subaru, BMW, Honda, Nissan and Ford vehicles, as part of $1.49 billion in multiple settlements regarding Takata airbags. Comprehensive nationwide media accompanied each phase, comprised of radio ads, consumer magazine ads and extensive online notice.

In re: Volkswagen "Clean Diesel" Marketing, Sales Practices, and Product Liability Litigation (Bosch Settlement) Comprehensive notice program within the Volkswagen Emissions Litigation that provided individual notice to more than 946,000 vehicle owners via first class mail and to more than 855,000 via email. A targeted internet campaign further enhanced the notice effort.

Hale v. State Farm Mutual Automobile Insurance Company For a $250 million settlement with approximately 4.7 million class members, Epiq designed and implemented a Notice Program with individual notice via postcard or email to approximately 1.43 million class members and a robust publication program, which combined, reached approximately 80% of all U.S. Adults Aged 35+ approximately 2.4 times each.

Oppenheimer Rochester Group Funds Securities Litigation In these securities cases, which combine six separate settlements, Epiq reviewed and processed over 10 million trade transactions, consolidated data and mailed more than 450,000 pre-populated records of claimant transactions ("ROFTS") to alleviate the burden on the majority of class members to research and file claims, and mailed over 180,000 additional Claim Forms and notices. We created complex software code to calculate the recognized losses across 19 different types of securities.

In re Merck & Co., Inc. Securities, Derivative & "ERISA" Litigation ('Vioxx') Epiq is currently administering this $1.062 billion settlement involving damages from securities trades going as far back as 1999. Epiq mailed almost 2 million notices, received more than 400,000 claims and processed millions of lines of securities transaction data, determined losses using complex algorithms relating to multiple securities for injured investors.

Hooker v SiriusXM Radio Inc. This $35 million settlement for alleged TCPA violations involves approximately 12 million class members. Class members could register for three months of free service or file a claim for cash payment. Epiq's class member outreach included both mailing approximately 8 million postcards and a total of 50 million emails to class members for noticing and reminder purposes. The claims administration process involved working with the defendant to validate claims data using the defendant's internal database.

The Shane Group, Inc. v Blue Cross Blue Shield of Michigan Epiq is the claims administrator for this 3 million class member insurance anti-trust settlement. Epiq utilized its proprietary Third-Party Payor (TPP) database to notice insurance companies and other third party payors in addition to the individual class members provided by the defendant. The claims process was complex and involved sensitive HIPAA protected data that had to be housed in a custom secure environment. The settlement was appealed and as a result the parties are currently finalizing alterations to the settlement to address the concerns of the appellant.

In re Checking Account Overdraft Litigation Epiq has implemented more In re: Checking Account Overdraft MDL NO. 2036 overdraft class action settlements than any other administrator and is currently providing settlement services to five of the six largest U.S. banks. Our ability to securely intake and normalize complex data from a multitude of sources proves a natural fit for banks and other financial services firms.

Mortgage Servicing Regulatory Settlement Summary Epiq is currently handling a number of remediation and distribution programs involving various financial institutions pursuant to private settlements and consent orders with the OCC, DOJ, FRB and CFPB. Examples of these engagements include:

- A borrower identification and distribution program to support a $35 million Department of Justice (DOJ) and Consumer Financial Protection Bureau (CFPB) settlement with a financial institution related to mortgage loans made to African-American and Hispanic borrowers.

- A payment distribution program to support an expedited payment agreement between the Office of the Comptroller of the Currency (OCC) and a financial institution, which resolves an Independent Foreclosure Review of the financial institution's foreclosure practices.

- A notification, claims and distribution program to support a Federal Reserve settlement with a financial institution related to mortgage loans originated at more than 800 branch offices.

- A notification, claims and distribution program to support a $320 million Home Affordable Modification Program (HAMP) settlement between the DOJ and a financial institution.

Experience in major projects by dollar value (values have been rounded)

$44.5B	Lehman Brothers Holding Inc	$1.9B	1983 Marine Barrack's Bombings	$480M	Wells Fargo Securities Litigation
$11B	Deepwater Horizon Economic Settlement	$1.3B	Hispanic Women and Farmers	$473M	Schering Securities Litigation
$8.5B	BNY Mellon Countrywide RMBS	$1B	In re Merck & Co Inc. Securities Derivative & ERISA Litigation	$389M	Royal Dutch Shell
$6.15B	WorldCom Securities	$860M	Johnson & Johnson Acuvue	$384M	Wells Fargo CPI
$5.5B	In Re Payment Card Interchange Fee and Merchant Discount Antitrust Litigation	$853M	Air Cargo Antitrust	$328M	In re Volkswagen "Clean Diesel" (Bosch Settlement)
$4.6B	Indian Residential Schools Settlement	$850M	Marsh & McLennan	$325M	Precision v. PWT ('Freight Forwarders')
$4.5B	Bank of America Auction Rate Securities	$845M	In re Urethane Antitrust	$320M	SunTrust HAMP
$4.5B	JP Morgan Chase RMBS	$834M	Tremont Securities	$299M	Takata Ford
$3.4B	Indian Trust	$800M	Engle Trust Fund	$231M	US Embassy Bombings
$3.2B	Tyco Securities	$758M	In re Hyundai and Kia Engine Litigation	$228M	Hall v Bank of America
$3.05B	VisaCheck/Mastermoney Antitrust	$750M	Washington Public Power Supply Systems	$219M	Genworth Securities Litigation
$3B	Petrobras Securities Litigation	$750M	Bristol Myers Securities	$215M	Merck Securities Litigation
$2.6B	Morgan Stanley RMBS	$730M	United States v. Pokerstars	$212M	Wells Fargo Financial Consent Order
$2.43B	Bank of America Corp. Securities Derivative & ERISA	$590M	Klein, et al. v. Bain Capital Partners LLC, et al.	$210M	In re Wilmington Trust Securities Litigation
$2.1B	The Hepatitis C Tainted Blood Transfusion Settlements	$520M	Jessica S. Cook v. Santee Cooper et al	$210M	Salix Securities Litigation
$2B	In re Foreign Exchange Benchmark Rates Antitrust Litigation	$504M	ISDAfix Antitrust Settlement	$200M	In re Fresenius Granuflo/Naturalyte Dialysate Products Liability Litigation
$1.2B	Black Farmers Discrimination Litigation	$504M	Bank of NY Mellon Forex	$200M	In re New England Compounding Pharmacy Inc. Products Liability Litigation
$1.10B	Royal Ahold Securities	$480M	Gary Hefler, et al. v. Wells Fargo & Co. et al.	$200M	NECC Victims Compensation Program

By notices disseminated (values have been rounded)

116,000,000	Ticketmaster.com
57,000,000	Classmates.com
55,000,000	Hooker v Sirius XM Radio
53,000,000	Takata Settlement
32,000,000	Justice Stores-McGladrey
26,000,000	VisaCheck/MasterMoney Antitrust
25,000,000	IPO Securities
22,000,000	McKnight v Uber
21,000,000	Interchange
20,500,000	Nwabueza v. AT&T
20,000,000	Webloyalty.com, Inc.
19,000,000	Interchange
18,000,000	Western Union Money Transfer
16,000,000	Khoday v. Symantec
15,140,000	Experian Information Solutions, Inc.
15,000,000	Farag v Kiip
15,000,000	Browning v. Yahoo!
15,000,000	JP Morgan TCPA
14,000,000	Living Social
14,000,000	Sallie Mae
13,000,000	Expedia Hotel Taxes and Fees
11,000,000	Premera Data Breach Settlement
9,000,000	Pelayo v. Mexico Money Transfer
9,000,000	Farrell v Bank of America
9,000,000	Precision v PWT
8,400,000	Air Passenger Settlement
8,300,000	Takata Ford
8,300,000	Marolda v Symantec
8,300,000	Bank of America TCPA
8,000,000	Meckstroth v Toyota Motor
7,600,000	Vergara v. Uber TCPA Settlement
7,600,000	MFS Sub-Track Mutual Fund
7,100,000	TD Bank Debit Card Overdraft
7,000,000	Community Hlth Sys DB
7,000,000	Time Warner Entertainment Company
7,000,000	AT&T Wireless
7,000,000	Equifax Consumer Services, Inc.
6,400,000	UCLA Health Data Breach Settlement
6,400,000	Angies List
5,700,000	Moore v Verizon
5,000,000	Mohan v. Dell
5,000,000	Moneygram – Mexico Money Transfer
4,600,000	1-800-Flowers Retail
4,500,000	Progressive Group Auto Insurance
4,300,000	Chimeno-Buzzi v Hollister
4,100,000	Amex Merchant Settlement
4,000,000	WorldCom Securities
3,900,000	Scharfstein v BP WCP
3,800,000	Clark v TransUnion
3,700,000	Fifth Third Overdraft Settlement
3,700,000	Tennille v Western Union
3,600,000	Bodnar v BofA
3,500,000	Pfizer Securities Litigation
3,500,000	IDE - UCLA Health
3,500,000	Bosch Settlement
3,500,000	Wells Fargo CPI Class Action
3,500,000	Michael Kors Administration
3,400,000	Lucero v SolarCity TCPA Settlement
3,300,000	Snyder v Ocwen Loan Servicing
3,200,000	Hale v. State Farm
3,000,000	McKinney-Drobnis v Massage Envy
3,000,000	Amgen Securities Litigation

By claims processed (values have been rounded)

4,300,000	Lease Oil Antitrust
2,100,000	Strong Sub-Track Mutual Fund
1,960,000	Wolf v. Red Bull
1,200,000	Baby Products Antitrust
1,051,000	Takata Settlement
1,000,000	AMEX Financial Advisors Securities
995,000	Daniels v. Allstate
980,000	WorldCom Securities
950,000	Gulf Coast Claims Facility
880,000	Premera Data Breach Settlement
815,000	Progressive Fair Credit Reporting Act
815,000	VisaCheck/MasterMoney Antitrust
760,000	Oppenheimer Funds Securities
724,000	Wells Fargo Securities
719,000	Bank of America Corp. Securities Derivative & ERISA
700,000	Lucent Technologies, Inc. Securities
698,000	Classmates.com
685,000	Deloris Kline v. Progressive Corporation
672,000	Oppenheimer Rochester Fund Securities Litigation
670,000	Citigroup Inc. Securities
618,000	TransUnion
607,000	Justice Stores-McGladrey
601,000	Dell Fair Fund
600,000	Global Crossing Securities
521,000	Expedia Hotel Taxes and Fees
520,000	SEC v AIG
500,000	Nortel Networks (I & II) Securities
438,000	General Motors Securities Litigation
425,000	Amgen Securities Litigation
414,000	Merck Vioxx Securities Litigation
396,000	Zepeda v. PayPal
394,000	Moore v Verizon
389,000	Reynolds v Hartford
357,000	BNYM Forex Securities Litigation
325,000	Hooker v Sirius XM Radio
324,000	Air Passenger Settlement
313,000	Cerbo v Ford of Englewood, Inc.
303,000	Wright et al v Nationstar Mort
298,000	Snyder v Ocwen Loan Servicing
275,000	TD Bank Debit Card Overdraft
268,000	Merck Securities Litigation
264,000	Carnegie v HR Block
256,000	Mohan v. Dell
250,000	Hill v State Street
240,000	Toronto-Dominion Securities Litigation Settlement
236,000	Bank of America TCPA
231,000	Apple Securities Litigation
227,000	Purex Settlement
206,000	Trombley v National City
196,000	Marchese v Cablevision
195,000	Toyota Securities Litigation
194,000	SEC v Raytheon
182,000	Ridgely v FEMA
179,000	Royal Dutch Shell
178,000	Angies List
148,000	UCLA Health Data Breach Settlement
144,000	Tennille v Western Union

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM; LOS ANGELES COUNTY EMPLOYEES RETIREMENT ASSOCIATION; ORANGE COUNTY EMPLOYEES RETIREMENT SYSTEM; SONOMA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION; and TORUS CAPITAL, LLC, on behalf of themselves and all others similarly situated, Plaintiffs, v. MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED; MERRILL LYNCH L.P. HOLDINGS, INC.; MERRILL LYNCH PROFESSIONAL CLEARING CORP.; CREDIT SUISSE AG; CREDIT SUISSE SECURITIES (USA) LLC; CREDIT SUISSE FIRST BOSTON NEXT FUND, INC.; CREDIT SUISSE PRIME SECURITIES SERVICES (USA) LLC; GOLDMAN, SACHS & CO. LLC; GOLDMAN SACHS EXECUTION & CLEARING, L.P.; J.P. MORGAN SECURITIES LLC; J.P. MORGAN PRIME, INC.; J.P. MORGAN STRATEGIC SECURITIES LENDING CORP.; J.P. MORGAN CHASE BANK, N.A.; MORGAN STANLEY & CO. LLC; PRIME DEALER SERVICES CORP.; STRATEGIC INVESTMENTS I, INC.; UBS AG; UBS AMERICAS INC.; UBS SECURITIES LLC; EQUILEND LLC; EQUILEND EUROPE LIMITED; and EQUILEND HOLDINGS LLC, Defendants.	No. 17-cv-6221 (KPF-SLC) [PROPOSED] ORDER PRELIMINARILY APPROVING SETTLEMENT AGREEMENT, CERTIFYING THE SETTLEMENT CLASS, AND APPOINTING CLASS COUNSEL AND CLASS REPRESENTATIVES FOR THE SETTLEMENT CLASS Hon. Katherine Polk Failla

WHEREAS, the Action[1] is pending before this Court;

WHEREAS, Plaintiffs[2] have entered into and executed a Stipulation and Agreement of Settlement (the "Settlement Agreement") with Credit Suisse Group AG, Credit Suisse AG; Credit Suisse Securities (USA) LLC; Credit Suisse First Boston Next Fund, Inc.; and Credit Suisse Prime Securities Services (USA) LLC (the "Settling Defendants," and together with Plaintiffs, the "Settling Parties"), which, if finally approved by the Court, will result in the settlement of all claims against Settling Defendants;

WHEREAS, in full and final settlement of the claims asserted against them in this Action, the Settling Defendants have agreed to pay an amount which totals $81,000,000 (the "Settlement Funds"), and to provide discovery that is likely to assist with the continued prosecution of the Action as set forth in the Settlement Agreement;

WHEREAS, Plaintiffs, having made an application, pursuant to Rule 23(e) of the Federal Rules of Civil Procedure, for an order preliminarily approving the Settlement Agreement, which sets forth the terms and conditions of the Settlement of the Action against the Settling Defendants and for dismissal of the Action against the Settling Defendants with prejudice upon the terms and conditions set forth in the Settlement Agreement;

WHEREAS, Plaintiffs have sought, and Settling Defendants have agreed not to object to, the certification of the Settlement Class (as defined below) solely for settlement purposes;

WHEREAS, Plaintiffs have requested that Co-Lead Counsel be appointed as settlement class counsel for the Settlement Class pursuant to Rule 23(g) of the Federal Rules of Civil Procedure;

---

[1] As defined in the Settlement Agreement, the "Action" means the above-captioned litigation pending in the United States District Court for the Southern District of New York.

[2] As defined in the Settlement Agreement, "Plaintiffs" are Iowa Public Employees' Retirement System; Los Angeles County Employees Retirement Association; Orange County Employees Retirement System; Sonoma County Employees' Retirement Association; and Torus Capital, LLC.

WHEREAS, Plaintiffs have requested that they be appointed class representatives of the Settlement Class;

WHEREAS, the Settling Parties have agreed to the entry of this [Proposed] Order Preliminarily Approving Settlement Agreement, Certifying the Settlement Class, and Appointing Class Counsel and Class Representatives for the Settlement Class (the "Order"); and

WHEREAS the Court has read and considered the Settlement Agreement and the exhibits annexed thereto and other documents submitted in connection with Plaintiffs' Motion for Preliminary Approval of the Settlement Agreement, and good cause appearing therefor;

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. All terms in initial capitalization used in this Order shall have the same meanings as set forth in the Settlement Agreement, unless otherwise defined herein.

I. PRELIMINARY APPROVAL OF SETTLEMENT AGREEMENT

2. Pursuant to Fed. R. Civ. P. 23(e)(1)(B), based on the showing that the Court will likely be able to approve the proposed settlement under Rule 23(e)(2) and certify the class for purposes of judgment on the proposed settlement, the Court hereby preliminarily approves the Settlement Agreement, subject to further consideration at the Fairness Hearing described below. The Court preliminarily finds that the settlement encompassed by the Settlement Agreement satisfies the requirements of Rules 23(c)(2) and 23(e) of the Federal Rules of Civil Procedure and due process so that an appropriate notice of the Settlement Agreement should be given, subject to the Court's approval of a notice plan as provided in this Order.

II. PRELIMINARY CERTIFICATION OF SETTLEMENT CLASS

3. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, the Court preliminarily certifies, solely for settlement purposes, a Settlement Class defined as follows:

> all Persons or entities who, directly or through an agent, entered into Stock Loan Transactions[3] with the Prime Broker Defendants,[4] direct or indirect parents,

[3] means any transaction, including any transaction facilitated by a prime broker or agent lender, in which an owner of a stock temporarily lends the stock in exchange for collateral or in which a borrower of a stock provides collateral to temporarily borrow a security, and in which the stock

subsidiaries, or divisions of the Prime Broker Defendants, or the Released Credit Suisse Parties,[5] in the United States from January 7, 2009 through the Execution Date[6] (the "Settlement Class Period"), inclusive. Excluded from the Settlement Class are Defendants and their employees, affiliates, parents, subsidiaries, and co-conspirators, should any exist, whether or not named in the Amended Complaint, entities which previously requested exclusion from any Class in this Action,[7] the United States Government, and all of the Released Credit Suisse Parties, provided, however, that Investment Vehicles[8] shall not be excluded from the definition of the Settlement Class.

4. Solely for purposes of the settlement, the Court preliminarily finds that the requirements of Federal Rules of Civil Procedure 23(a) and 23(b)(3) have been satisfied, as follows: (a) the members of the Settlement Class are so numerous that joinder of all members of the Settlement Class is impracticable; (b) questions of law and fact common to the Settlement Class predominate over any individual questions; (c) the claims of Plaintiffs are typical of the

---

is ultimately returned to the lender at a later date, at which time the lender returns the collateral to the borrower. "Stock Loan Transactions" do not include non-equity securities lending or stock repurchase (repo) transactions.

[4] "Prime Broker Defendants" means Settling Defendants and Bank of America Merrill Lynch, Goldman Sachs, Morgan Stanley, JPMorgan, and UBS, including affiliates named in the Amended Complaint (ECF No. 73).

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

[6] The "Execution Date" is January 20, 2022.

[7] These entities are Citadel LLC, Two Sigma Investments, PDT Partners, Renaissance Technologies LLC, TGS Management, Voloridge Investment Management, and the D.E. Shaw Group and their corporate parents, subsidiaries, and wholly owned affiliates.

[8] "Investment Vehicles" means any investment company or pooled investment fund, including, but not limited to: (i) mutual fund families, exchange-traded funds, fund of funds and hedge funds, in which a Defendant has or may have a direct or indirect interest, or as to which its affiliates may act as an investment advisor, but of which a Defendant or its respective affiliates is not a majority owner or does not hold a majority beneficial interest, and (ii) any Employee Benefit Plan as to which a Defendant or its affiliates acts as an investment advisor or otherwise may be a fiduciary.

claims of the Settlement Class; (d) Plaintiffs and Co-Lead Counsel have fairly and adequately represented and protected the interests of the Settlement Class; and (e) a class action is superior to other available methods for the fair and efficient adjudication of the controversy, considering (i) the interests of members of the Settlement Class in individually controlling the prosecution of separate actions; (ii) the extent and nature of any litigation concerning the controversy already begun by members of the Settlement Class; (iii) the desirability or undesirability of concentrating the litigation of these claims in this particular forum; and (iv) the likely difficulties in managing this Action as a class action.

5. If the Effective Date does not occur with respect to the Settlement Agreement because of the failure of a condition that affects such Settlement Agreement, this conditional certification of the Settlement Class shall be deemed null and void as to the Settling Parties subject to such Settlement Agreement without the need for further action by the Court or any of the Settling Parties. In such circumstances, each of the Settling Parties shall retain their rights to seek or to object to certification of this litigation as a class action under Rule 23 of the Federal Rules of Civil Procedure, or under any other state or federal rule, statute, law, or provision thereof, and to contest and appeal any grant or denial of certification in this litigation or in any other litigation on any other grounds.

III. CLASS COUNSEL AND CLASS REPRESENTATIVES

6. The law firms of Quinn Emanuel Urquhart & Sullivan, LLP, and Cohen Milstein Sellers & Toll PLLC, are preliminarily appointed, solely for settlement purposes, as Co-Lead Counsel for the Settlement Class.

7. Plaintiffs are preliminarily appointed, solely for settlement purposes, as class representatives for the Settlement Class.

IV. PLAN OF DISTRIBUTION, NOTICE, AND FAIRNESS HEARING

8. At a later practicable date, Plaintiffs shall submit for the Court's approval a proposed Plan of Allocation of the Settlement Fund (and including all interest and income earned thereon after being transferred to the Escrow Account).

9. At a later practicable date, Plaintiffs shall submit for the Court's approval a proposed notice plan for purposes of advising members of the Settlement Class, among other things, of their right to object to the Settlement Agreement, their right to exclude themselves from the Settlement Class, the procedure for submitting a request for exclusion, the time, date, and location of the Fairness Hearing to be scheduled by the Court, and their right to appear at the Fairness Hearing.

10. At or after the Fairness Hearing, the Court shall determine whether the Settlement Agreement, the proposed Plan of Distribution, any application for service awards, and any application for attorneys' fees and/or expenses for Plaintiffs' Counsel should be finally approved.

V. OTHER PROVISIONS

11. The notice requirements of the Class Action Fairness Act, 28 U.S.C. §1715, have been met.

12. The Court approves Plaintiffs' designation of Epiq Class Action & Claims Solutions, Inc as the Settlement Administrator. Absent further order of the Court, the Settlement Administrator shall have such duties and responsibilities as are set forth in the Settlement Agreement.

13. The Court approves Plaintiffs' designation of Huntington National Bank as Escrow Agent. Absent further order of the Court, the Escrow Agent shall have such duties and responsibilities in such capacity as are set forth in the Settlement Agreement.

14. The Court approves the establishment of escrow accounts under the Settlement Agreement as Qualified Settlement Funds ("QSFs") pursuant to Internal Revenue Code §468B and the Treasury Regulations promulgated thereunder, and retains continuing jurisdiction as to any issue that may arise in connection with the formulation or administration of the QSFs. All funds held by the Escrow Agent shall be deemed and considered to be in *custodia legis*, and shall remain subject to the jurisdiction of the Court, until such time as such funds shall be distributed pursuant to the Settlement Agreement and further order(s) of the Court.

15. All reasonable expenses incurred in identifying and notifying potential Settlement Class Members as well as administering the Settlement Fund shall be paid, as set forth herein and in Paragraph 3.10 of the Settlement Agreement, up to the sum of $2,500,000. In the event the Court does not approve the Settlement Agreement, or if the Settlement Agreement otherwise fails to become effective, neither Plaintiffs nor any of their counsel shall have any obligation to repay any amounts incurred or disbursed pursuant to Paragraph 3.10 of the Settlement Agreement.

16. In the event that the Settlement Agreement is terminated, is vacated, is not approved, or the Effective Date fails to occur for any reason, then the parties to such Settlement Agreement shall be deemed to have reverted to their respective status in the Action as of the Execution Date, and, except as otherwise expressly provided herein, such parties shall proceed in all respects as if such Settlement Agreement and any related orders had not been entered, and such Settlement Agreement (including any amendment(s) thereto) and this Order shall be null and void, of no further force or effect, and without prejudice to any such Settling Parties, and may not be introduced as evidence or referred to in any actions or proceedings by any Person; provided, however, that in the event of termination of a Settlement Agreement, Paragraphs 8.3, 9.10, 9.11, 11.4, and 11.5 of such Settlement Agreement shall nonetheless survive and continue to be of effect and have binding force. Any portion of the Settlement Fund previously paid by or on behalf of the Settling Defendants, together with any interest earned thereon (and, if applicable, re-payment of any Fee and Expense Award referred to in Paragraph 8.3 of such Settlement Agreement), less Taxes due, if any, with respect to such income, and less costs of administration and notice actually incurred and paid or payable from the Settlement Fund (not to exceed the sum of $2,500,000 without the prior approval of the Court) shall be returned to such Settling Defendants within five (5) business days after written notification of such event is sent by counsel for the Settling Defendants or Co-Lead Counsel to the Escrow Agent. At the request of such Settling Defendants, the Escrow Agent shall apply for any tax refund owed on the Settlement Fund and pay the proceeds to such Settling Defendants.

17. The Settling Defendants have denied wrongdoing or liability in connection with the allegations in the Action. As such, nothing in the Settlement Agreement constitutes an admission by the Settling Defendants as to the merits of the allegations made in the Action, the validity of any defenses that could be or have been asserted, or the appropriateness of certification of any class other than the Class under Fed. R. Civ. P. 23 for purposes of settlement only.

18. All proceedings in the Action with respect to the Settling Defendants are stayed until further order of the Court. Such stay does not apply, however, to the extent actions are necessary to implement the terms of the Settlement Agreement or comply with its terms. Pending final determination of whether the Settlement Agreement should be approved, neither Plaintiffs nor any Settlement Class Member shall commence or prosecute any action alleging any of the Released Class Claims against the Settling Defendants.

19. All Class Members shall be bound by all determinations and judgments in the Action concerning the settlements set forth in the Settlement Agreement, whether favorable or unfavorable to the Settlement Class.

20. Any member of the Settlement Class may enter an appearance in the Action, at his, her, or its own expense, individually or through counsel of his, her, or its own choice. Any member of the Settlement Class who does not enter an appearance will be represented by Co-Lead Counsel.

IT IS SO ORDERED.

DATED: ________________________

____
HON. KATHERINE P. FAILLA
UNITED STATES DISTRICT JUDGE