UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE LIBOR-BASED FINANCIAL INSTRUMENTS ANTITRUST LITIGATION	Master File No. 11-md-2262 (NRB)
THIS DOCUMENT RELATES TO:	
METZLER INVESTMENT GmbH, et al., Plaintiffs, v. CREDIT SUISSE GROUP AG, et al. Defendants.	No. 11 Civ. 2613

EXCHANGE-BASED PLAINTIFFS' REPLY MEMORANDUM OF LAW IN SUPPORT OF MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENTS WITH DEFENDANTS BANK OF AMERICA, BARCLAYS BANK PLC, CITI, DEUTSCHE BANK, HSBC BANK PLC, JPMORGAN, AND SOCIÉTÉ GÉNÉRALE AND MOTION FOR ATTORNEYS' FEES AND REIMBURSEMENT OF LITIGATION EXPENSES

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Exchange-Based Plaintiffs[1] respectfully submit this reply memorandum of law in further support of their Motion for Final Approval of Class Action Settlements with defendants BOA, Barclays, Citi, Deutsche Bank, HSBC, JPMorgan, and SG and memorandum in support thereof (ECF Nos. 3141-42) ("Final Approval Motion") and their Motion for Attorneys' Fees, Reimbursement of Litigation Expenses, and Service Awards for Named Plaintiffs (ECF Nos. 3144-45) ("Fee and Expense Application") filed on August 13, 2020.[2]

Exchange-Based Plaintiffs and Class Counsel are pleased to advise the Court of the overwhelmingly positive reaction of the Settlement Classes to the proposed Settlements and the Fee and Expense Application. There have been **no objections** by any Settlement Class Member to any of the Settlements or any aspect of Class Counsels' request for attorneys' fees and litigation expenses. There have been only six requests for exclusion, each of which involves a litigant who already has individual claims pending before the Court in this MDL proceeding. Only one Class Member has submitted an objection to the Revised Plan of Distribution and this sole objection is very limited in scope. The positive reaction of this Class of sophisticated commodity futures traders and investors following an extensive notice campaign is a very strong indication of the fairness, reasonableness and adequacy of the Settlements, the Revised Plan of Distribution and Class Counsels' request for attorneys' fees representing a 1.04 risk multiplier and reimbursement of litigation expenses.

[1] "Exchange-Based Plaintiffs" or "Plaintiffs" are Metzler Asset Management GmbH (f/k/a Metzler Investment GmbH), FTC Futures Fund SICAV, FTC Futures Fund SICAV, FTC Futures Fund PCC Ltd., Atlantic Trading USA, LLC, 303030 Trading LLC, Gary Francis, and Nathanial Haynes. All references to "ECF No." herein refer to documents in the docket of the MDL Action, No. 11 MDL 2262 (NRB) unless otherwise specified.

[2] Unless otherwise defined herein, all capitalized terms have the same meaning as set out in Plaintiffs' opening memorandum in support of final approval of the Settlements (ECF No. 3142) and their Fee and Expense Application (ECF No. 3145). Citations herein to "McGrath Decl. Ex. ___" refer to exhibits to the concurrently filed Reply Declaration of Christopher M. McGrath in Support of Exchange-Based Plaintiffs' Final Approval Motion and Fee and Expense Application.

I. Preliminary Statement

In accordance with the Notice Program directed by the Court in its Preliminary Approval Order, close to 21,000 Notice Packets were mailed to potential Settlement Class Members and a robust print and media Notice Program was executed to notify Settlement Class Members of the proposed Settlements. *In re LIBOR-Based Fin. Instruments Antitrust Litig.*, No. 11 Md. 2262, 2020 WL 1059489 (S.D.N.Y. Mar. 2, 2020) (ECF No. 3038). *See* previously submitted Declaration of Steven Straub on Behalf of A.B. Data, Ltd. Regarding Notice and Claims Administration for Class Action with Settling Defendants, dated August 12, 2020 (the "Mailing Decl."), ¶ 10 (ECF No. 3146-1).

The August 27, 2020 deadline for Class Members to object to or exclude themselves from the Settlements has passed. Notably, ***no Class Members have objected*** to the proposed Settlements or the Fee and Expense Application. "'A favorable reception by the class constitutes 'strong evidence' that a proposed settlement is fair.'" *In re GSE Bonds Antitrust Litig.*, No. 19 Civ. 1704, 2020 WL 3250593, at *2 (S.D.N.Y. June 16, 2020) (quoting *In re Citigroup Inc. Sec. Litig.*, 965 F. Supp. 2d 369, 382 (S.D.N.Y. 2013)). Thus, "[i]f only a small number of objections are received, that fact can be viewed as indicative of the adequacy of the settlement." *Wal-Mart Stores, Inc. v. Visa U.S.A., Inc.*, 396 F.3d 96, 118 (2d Cir. 2005). Only ***one*** member of the class objected to the Revised Plan of Distribution. Specifically, the objection focuses on the narrow issue of the Plan's allocation of 75% of the Net Settlement Fund to Recognized Net Losses and 25% to Recognized Volume and requests that this allocation be adjusted so that the Net Settlement Fund is allocated 50% to Recognized Net Losses and 50% to Recognized Volume. *See* Supplemental Declaration of Steven Straub on Behalf of A.B. Data, Ltd. Regarding Objections and Requests for Exclusion, dated September 10, 2020, ¶ 4 and Ex. A ("Supp. Mailing Decl."), annexed as Ex. A to the McGrath Decl. This objection addressed only certain aspects of the

Revised Plan of Distribution and should be overruled for the reasons discussed hearin. *See* Section II.C, *infra*.[3]

In addition, the Settlement Administrator has received only six requests for exclusion that were postmarked on or before the exclusion deadline.[4] *See* Supp. Mailing Decl. ¶¶ 5-6 and Ex. B; *see also In re Signet Jewelers Ltd. Sec. Litig.*, No. 16 Civ. 06728, 2020 WL 4196468, at *6 (S.D.N.Y. July 21, 2020) ("the small number of requests for exclusion support a finding that the Settlement is fair, reasonable, and adequate"). Each of these exclusion requests were submitted by individual direct action plaintiffs who continue to have individual claims pending before this Court. *Id.* at Ex. B.

As set forth in the opening briefs and as further supported below, Exchange-Based Plaintiffs and Class Counsel respectfully submit that the positive reaction of Class Members is compelling evidence that the Settlements, the Revised Plan of Distribution, and the Fee and Expense Application are fair reasonable and should be approved by the Court.

II. The Reaction of the Settlement Classes Fully Supports Approval of the Settlements, the Revised Plan of Distribution, and the Fee and Expense Application

A. The Settlements Should Be Granted Final Approval. The "[f]avorable reaction of a class of sophisticated investors evidences fairness, reasonableness, and adequacy" of a proposed settlement. *In re Luxottica Grp. S.p.A. Sec. Litig.*, 233 F.R.D. 306, 312 (E.D.N.Y. 2006)

[3] On September 8, 2020, the Court entered an order "determin[ing] that it is inadvisable to hold the fairness in-person because of health concerns related to the COVID-19 pandemic," and "[ordered] that the fairness hearing shall be conducted telephonically on the date and time that it was previously scheduled, September 17, 2020 at 11:00 a.m." *See* ECF No. 3163. A.B. Data posted a copy of this order on the settlement website. In addition, Class Counsel served the objector a copy of this order via email.

[4] Class Counsel also received a letter from the U.S. Department of Justice ("DOJ") dated March 9, 2020 indicating, *inter alia*, that following review of the various pleadings and other documents provided to the United States Attorney General pursuant to the Federal Class Action Fairness Act, 28 U.S.C. § 1715, the United States Attorney General "does not agree to the inclusion of the federal government as a class member" in this class action. The DOJ explained that "a class represented by private counsel could not represent the United States…, because private counsel is not authorized to represent the interests of the United States and could not bind the United States."

(citing *In re Am. Bank Note Holographics, Inc.*, 127 F. Supp. 2d 418, 425 (S.D.N.Y. 2001)); *see also In re LIBOR-Based Fin. Instruments Antitrust Litig.*, 327 F.R.D. 483, 493 (S.D.N.Y. 2018) (granting final approval of OTC plaintiffs' settlements and noting "classes' favorable response to the settlements weighs strongly in favor of final approval"). Indeed, in this Circuit, "the favorable reaction of the overwhelming majority of class members to the Settlement is perhaps the most significant factor in [the] *Grinnell* inquiry." *Wal-Mart*, 396 F.3d at 119; *see also In re FLAG Telecom Holdings, Ltd. Sec. Litig.*, No. 02 Civ. 3400, 2010 WL 4537550, at *16 (S.D.N.Y. Nov. 8, 2010) ("The absence of objections to the Settlement supports the inference that it is fair, reasonable and adequate.").[5]

The minimal number of exclusion requests – just six –further confirms the excellent outcome for the Settlement Class, as does the fact that no objections were made to any terms of the Settlements themselves. *See* Supp. Mailing Decl. ¶ 4 and Ex. A. Critically, each of the exclusion requests were submitted by plaintiffs who are pursuing their own individual claims in this MDL. *Id.* at ¶ 5 and Ex. B; *see also In re LIBOR-Based Fin. Instruments Antitrust Litig.*, No. 11 Md. 2262, 2019 WL 3006262, at *7 (S.D.N.Y. July 10, 2019) (rejecting argument that a plaintiff "affirmatively expressed its desired exclusion by actively litigating its individual action."). As such, not a single absent Settlement Class Member sought exclusion from the Settlement Classes.

B. The Revised Plan of Distribution Should Be Granted Final Approval. A plan of distribution "…need only have a reasonable, rational basis, particularly if recommended by experienced and competent class counsel." *In re WorldCom, Inc. Sec. Litig.*, 388 F. Supp. 2d 319,

[5] *See also In re Merrill Lynch & Co., Inc. Research Reports Sec. Litig.*, No. 02 MDL 1484, 2007 WL 313474, at *10 (S.D.N.Y. Feb. 1, 2007) ("minimal number of objections and requests for exclusion militates in favor of approving the settlement as be[ing] fair, adequate, and reasonable"); *Am. Bank Note*, 127 F. Supp. 2d at 425 (low number of exclusions warrants settlement approval); *In re Advanced Battery Techs., Inc. Sec. Litig.*, 298 F.R.D. 171, 176 (S.D.N.Y. 2014) ("The absence of…objections and minimal investors electing to opt out of the Settlement provides evidence of Class members' approval of the terms of the Settlement.").

344 (S.D.N.Y. 2005). Accordingly, a plan of distribution "'need not be perfect'" in order to be approved. *LIBOR*, 327 F.R.D. at 496 (quoting *Hart v. RCI Hosp. Holdings, Inc.*, No. 09 Civ. 3043, 2015 WL 5577713, at *12 (S.D.N.Y. Sept. 22, 2015)).

The Revised Plan of Distribution ("Plan") – which already received preliminary approval from the Court (ECF No. 2973)[6] – provides that each Authorized Claimant will receive his, her, or its *pro rata* share of the Net Settlement Fund. Plan, ¶ 4. The Plan provides for distribution of 75% of the Net Settlement Fund on the basis of *pro rata* "Recognized Net Loss[7]" and 25% on the basis of *pro rata* "Recognized Volume[8]," subject to certain "Legal Risk Periods[9]" and further subject to a guaranteed minimum payment of $20. Plan, ¶ 2.

Although the Court has the authority to modify the Plan at any time (including after final judgment)[10] and without affecting the final approval of any of the Settlements,[11] Class Counsel

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[6] On June 23, 2020, the Court approved Plaintiffs' correction to the end date for the legal risk period set forth in paragraph 8(a) of the Plan of Distribution as May 17, 2010, not May 31, 2010. ECF No. 3106.

[7] Recognized Net Loss, if any, for each Eligible Claimant is determined by: (a) netting the gains and losses (including certain mark-to-market gains and losses) on transactions in all Eurodollar futures and options on Eurodollar futures during each of the eight identified "Legal Risk Periods" during the Settlement Class Period, (b) applying the applicable legal risk discount, if any, to any net loss in any of the eight different Legal Risk Periods, (c) applying further applicable discounts for transactions engaged in by claimants determined to be hedgers (10% discount) or swaps dealers (65% discount), and (d) summing any adjusted net losses for each Legal Risk Period in which a claimant has an adjusted net loss. Plan, ¶¶ 5, 8, 9.

[8] Recognized Volume, if any, for each Eligible Claimant is determined by: (a) summing the total number of Eurodollar futures contracts and options on Eurodollar futures bought and sold during each Legal Risk Period, (b) applying the applicable legal risk discount, if any, to the total volume, if any, in each of the eight different Legal Risk Periods, (c) applying further applicable discounts for transactions engaged in by claimants determined to be hedgers (10% discount) or swaps dealers (65% discount), (d) applying a further discount (70%) for transactions in options on Eurodollar futures contracts relative to transactions in Eurodollar futures contracts and (e) summing the total adjusted volume, if any, for each of the Legal Risk Periods. Plan, ¶¶ 6, 8, 9.

[9] The Plan includes eight "Legal Risk Periods." Plan, ¶ 8. Based on the Court's prior rulings, each of the eight Legal Risk Periods set forth in sub-sections (a)-(h) of the Plan has been assigned a "Legal Risk Adjustment" that reflects the relative legal risk associated with the qualifying transactions in that Legal Risk Period. *Id.*

[10] The Plan specifically provides that it may be amended at any time by the Court on its own initiative. Plan, ¶ 17.

[11] Each of the Settlements explicitly provides that their approval should be considered separate and apart from any issues related to the plan of distribution. *See* Barclays Settlement Agreement, at ¶¶ 8, 18.3, 30 (ECF No. 680-3); Citi Settlement Agreement, at ¶¶ 5(C), 10(iii), 15 (ECF No. 2307-4); Deutsche Bank Settlement Agreement, at ¶¶ 5(C), 10(iii), 16(B) (ECF No. 2307-5); HSBC Settlement Agreement, at ¶¶ 5(C), 10(iii) (ECF No. 2307-6); JPMorgan/BOA

respectfully submit that the Plan easily satisfies the standards for final approval. *First*, the Plan has a reasonable and rationale basis. Plans of distribution approved in prior class action settlements alleging manipulation of commodity futures contract prices have compensated class members using net losses,[12] volume[13] and legal risk discounts.[14] The use of net losses is particularly appropriate in cases where, like here, distribution based on an "artificiality" based plan is difficult to implement. ECF No. 2875, pp. 1-2. *Second*, the Plan is recommended by counsel with decades of experience in CEA manipulation cases after more than eight years of work on this case (including extensive fact and expert discovery) and with the benefit of the Court's many detailed opinions. *See In re Giant Interactive Grp., Inc. Sec. Litig.*, 279 F.R.D. 151, 163 (S.D.N.Y. 2011) (in determining whether a plan of allocation is reasonable courts give great weight to the opinion of experienced counsel). *Third*, several key aspects of the Plan (including the Legal Risk Periods)

Settlement Agreement, at ¶¶ 5(C), 10(iii), 16(B) (ECF No. 2728-5); and SG Settlement Agreement, at ¶¶ 5(C), 10(iii), 16(B) (ECF No. 3023-4). Indeed, settlements of class action claims have been approved and final judgment entered before a plan of distribution was adopted. *See e.g., In re NASDAQ Market-Makers Antitrust Litig.,* 187 F.R.D. 465, 480 (S.D.N.Y. 1998); Manual Complex Litig. (4th) §21.312 (4th ed.) ("Often…the details of allocation and distribution are not established until after the settlement is approved.").

[12] Plans of distribution approved in class actions alleging manipulation of futures prices have included a component that compensated Eligible Class Members if they had net losses within a discrete sub-period within the settlement class. *See, e.g.*, *In re Crude Oil Commodity Futures Litig.*, No. 11 Civ. 3600 (S.D.N.Y. June 30, 2015), ECF No. 287-5, ¶¶ 4, 6, 12-15 (Jacobson Declaration, ECF No. 2385, Ex. 10); Stipulation & Agreement of Settlement, *In re Platinum & Palladium Commodities Litig.*, No. 10 Civ. 3617 (S.D.N.Y. Sept. 18, 2013), ECF No. 141-1, at 105-108 (Jacobson Declaration, ECF No. 2385, Ex. 14); Order, *In re Nat. Gas Commodity Litig*., No. 03 Civ. 6186 (S.D.N.Y. June 7, 2010), ECF No. 618, at 9-15 (Jacobson Declaration, ECF No. 2385, Ex. 18); *see* Order Establishing Plan of Allocation, *In re Sumitomo Copper Litig.*, No. 96 Civ. 4584 (S.D.N.Y. May 1, 2002), ECF No. 349 (Jacobson Declaration, ECF No. 2385, Ex. 20).

[13] Plans of allocation distribution in prior manipulation cases have included a volume metric. *See, e.g., In re Foreign Exchange Benchmark Rates Antitrust Litig.* ("*In re Forex*"), No. 13 Civ. 7789 (S.D.N.Y. Aug. 31, 2016) (ECF No. 653-5) (plan of distribution) (McGrath Decl. Ex. B); *Alaska Elec. Pension Fund, et al., v. Bank of America, N.A., et al.*, No. 14 Civ. 7126 (S.D.N.Y. March 30, 2018), ECF No. 602-1, at 21-22 (plan of distribution) (McGrath Decl. Ex. D), Order, *In re Nat. Gas Commodity Litig*., No. 03 Civ. 6186 (S.D.N.Y. June 7, 2010), ECF No. 618, at 9-15 (Jacobson Declaration, ECF No. 2385, Ex. 18).

[14] Legal risk discounts and adjustments to the distribution plan for the relative strengths and weaknesses of the claims have been repeatedly approved in prior class action settlements. *Compare, e.g., In re Forex*, No. 13 Civ. 7789, (S.D.N.Y. Aug. 31, 2016), ECF No. 653-5, Sections V-VI (plan of distribution providing for legal discounts based on relative legal strength of claims) (McGrath Decl. Ex. B), ECF No. 1095, ¶ 4 (order granting final approval of plan of distribution) (McGrath Decl. Ex. C) *with e.g., Charron v. Wiener*, 731 F.3d 241, 253 (2d Cir. 2013) ("All class settlements value some claims more highly than others, based on their perceived merits, and strike compromises based on probabilistic assessments").

were the product of allocation mediations conducted by separate allocation counsel and before a neutral mediator thereby ensuring a fair process. *Fourth*, following an extensive notice campaign to this Class of sophisticated commodity futures traders and investors (which included notice of the Plan), only a single Class Member has submitted an objection to the Plan. The positive reaction of the Class is a further indication of the reasonableness of the Plan. *See, e.g., In re Veeco Instruments Inc. Sec. Litig.*, No. 05 MDL 01695, 2007 WL 4115809, at *14 (S.D.N.Y. Nov. 7, 2007) (lack of objections by the class supports final approval of the plan of allocation).

C. The Objection to the Plan Should Be Overruled. The sole objection to the Plan is limited is extremely limited in scope. It raises two issues: (1) a supposed "lack of clarity" concerning the calculation of Recognized Net Losses under the Plan; and (2) a request that the Plan's allocation of 75% of the Net Settlement Fund to Recognized Net Losses and 25% to Recognized Volume be adjusted so that the Net Settlement Fund is allocated 50% to Recognized Net Losses and 50% to Recognized Volume. *See* Suppl. Mailing Decl. Ex. A (Objection by Mr. Todd Rowan, hereinafter "Objection"). With respect to the calculation of Recognized Net Losses, the Objection states that the Plan is supposedly not clear about which expirations of Eurodollar futures contracts will be included in the calculation of Recognized Net Losses. *Id*., pp. 2-3. However, the Plan is clear on this issue: *all* expirations of Eurodollar futures contract opened and/or closed during a particular Legal Risk Period are included in the net loss calculation. Plan, ¶ 8(a)-(h). Class Counsel has conferred at length with the Class Member who submitted the objection (Mr. Todd Rowan) and believe they have addressed and alleviated his concerns with respect to the mechanics of the calculation of Recognized Net Losses.

The second part of the Objection requests that the Court alter the Plan to provide for a 50-50 split of the Net Settlement Fund between Recognized Net Loss and Recognized Volume. *See*

Objection, p. 3. In support of this request, the Objection states that net losses may not properly compensate high volume traders who may have been impacted by the alleged manipulation. *Id*., pp. 2-3. In particular, the objection states that a trader may show a net profit on a particular trade but such profit could have been even higher "but for" the alleged manipulation. *Id*. Class Counsel respectfully submit that these same concerns about the limitations of compensating Class Members based on net losses have already been reasonably and rationally addressed by the Plan. The Plan's combined use of net losses and volume was specifically designed to address exactly the types of concerns raised by the Objection by providing compensation for economic injuries which would be uncompensated in a distribution plan based solely on net losses. ECF No. 2956-4 (expert declaration endorsing combined use net losses and volume). In fact, the Plan's allocation of 25% of the Net Settlement Fund to volume is on the *higher end* of what has previously been found to be fair and reasonable in cases alleging manipulation of commodity futures prices.[15] In *In re Nat. Gas Commodity Litig.,* which, like here, involved alleged manipulations of a daily published benchmark, the 74.6%-25.4% split in the plan of allocation was the result of negotiations with high-volume commodity futures traders who raised objections similar to those raised by the high-volume trader here. *In re Nat. Gas*, Final Approval Order, No. 03 Civ. 6186 (S.D.N.Y. June 7, 2010), ECF No. 618, at Ex. A ¶¶ IV.A.1.a., IV.B. (net losses), IV.A.2. (volume) (Jacobson Decl., ECF No. 2385, Ex. 18). Further adding to the reasonableness of the Plan, the 75%-25% split was the result of an arms-length mediation process before a neutral mediator. *See* Decl. of Kenneth R. Feinberg, ECF No. 2956-3, at ¶14. Class Counsel respectfully requests that the Court overrule the single objection to the Plan and finally approve the Plan.

[15] *See, e.g., In re Crude Oil Commodity Futures Litig.*, No. 11 Civ. 3600 (S.D.N.Y. June 3, 2015), ECF No. 287-5, ¶¶ 6 (Jacobson Declaration, ECF No. 2385, Ex. 10) (10% of net settlement fund allocated to net losses); *In re Platinum & Palladium Commodities Litig.*, No. 10 Civ. 3617 (S.D.N.Y. Sept. 18, 2013), ECF No. 141-1, at 103 (Jacobson Declaration, ECF No. 2385, Ex. 14) (10% of net settlement fund allocated to net losses).

D. Class Counsel's Fee and Expense Application Should Be Approved. As detailed in the Fee and Expense Application, Class Counsel has requested an award of attorneys' fees that would represent a 1.04 risk multiplier and reimbursement of litigation expenses totaling $5,613,578.86. Following a multi-faceted and robust notice program to the Settlement Classes, not a single Settlement Class Member has objected to Class Counsel's Fee and Expense Application. *See, e.g.*, *Veeco*, 2007 WL 4115808, at *10 (the reaction of class members to a fee and expense request "is entitled to great weight by the Court" and the absence of any objection "suggests that the fee request is fair and reasonable") (citation omitted).[16]

Additionally, many of these Settlement Class Members are institutional investors, among the most sophisticated participants in financial markets who often "possess the incentive and ability to object." *Signet Jewelers*, 2020 WL 4196468, at *6. The lack of any objections, particularly from sophisticated investors and institutions, is strong evidence that Class Counsel's Fee and Expense Application is fair and reasonable. *Id.*; *see also In re Citigroup Inc. Bond Litig.*, 296 F.R.D. 147, 156 (S.D.N.Y. 2013) (the reaction of the class supported the settlement where "not one of the [ ] requests for exclusion was submitted by an institutional investor"). *Cf. In re LIBOR-Based Fin. Instruments Antitrust Litig.*, 27 F. Supp. 3d 447, 476 n.27 (S.D.N.Y. 2014) (discussing sophistication of Eurodollar Futures traders).

Numerous courts in this District have considered the lack of objections by institutional investors to the attorneys' fees as strong evidence of the fees' reasonableness. *See In re Telik Inc. Sec. Litig.*, 576 F. Supp. 2d 570, 593-94 (S.D.N.Y. 2008) ("Members of the Class, which would include sophisticated institutional investors, were informed that they could object to the amount of

[16] *See also In re Prudential Sec. Inc. Ltd. P'ship Litig.*, 985 F. Supp. 410, 416 (S.D.N.Y. 1997) (in "determining the reasonableness of a requested fee, numerous courts have recognized that the lack of objection[s] from members of the class is one of the most important reasons," considered in approving a fee request) (citation omitted).

attorneys' fees or expenses requested. . . . That only one objection to the fee request was received is powerful evidence that the requested fee is fair and reasonable."); *In re Bisys Sec. Litig.*, No. 04 Civ. 3840, 2007 WL 2049726, at *1 (S.D.N.Y. July 16, 2007) ("[N]ot a single class member other than Zorn raised any objection - even though the class included numerous institutional investors who presumably had the means, the motive, and the sophistication to raise objections if they thought the one-third maximum fee was excessive . . . .").[17] Consequently, this factor further supports the conclusion that Class Counsel's requested fees and expenses are fair and reasonable and should be approved.

E. The Requested Service Awards Should Be Approved. The lack of any objections to the named plaintiffs' request for service awards also demonstrates that the request is reasonable. *See In re LIBOR-Based Fin. Instruments Antitrust Litig.*, No. 11 Civ. 5450, 2018 WL 3863445, at *2 (S.D.N.Y. Aug. 14, 2018) (granting OTC plaintiffs' request for incentive awards of $25,000 each for five of the named plaintiffs where class members were provided notice and did not object); *Advanced Battery*, 298 F.R.D. at 184 (granting lead plaintiffs' request for an award where class members were given notice and did not object).

Accordingly, the Settlement Class Members' universally positive reaction to the Settlements strongly favors final approval of the Settlements, the Revised Plan of Distribution, approval of Class Counsel's Fee and Expense Application.

III. Conclusion

For these reasons and those stated in Exchange-Based Plaintiffs' prior submissions to the

[17] *See also In re WorldCom, Inc. Sec. Litig.*, 388 F. Supp. 2d 319, 354 (S.D.N.Y. 2005) (awarding counsel's requested attorneys' fee after finding institutional investors had not objected to this request and were participating the settlement); *accord In re Prudential Sec. Inc. Ltd. P'ships Litig.*, 912 F. Supp. 97, 103 (S.D.N.Y. 1996) ("isolated" objections should be considered "in the context of thousands of class members who have not expressed themselves similarly"); *Ressler v. Jacobson*, 149 F.R.D. 651, 656 (M.D. Fla. 1992) ("The fact that there are no objections to either the Settlement or to Petitioners' request for attorney's fees is strong evidence of the propriety and acceptability of that request.").

Court, Exchange-Based Plaintiffs respectfully submit that their Final Approval Motion and Fee and Expense Application should be granted.

Dated: September 10, 2020
New York, New York

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Co-Interim Lead Counsel for the Exchange-Based Plaintiffs and the Settlement Classes

CERTIFICATE OF SERVICE

I hereby certify that on September 10, 2020, I caused the foregoing to be electronically filed with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the email addresses denoted on the Electronic Mail Notice List.

I hereby also certify that on September 10, 2020, I caused a copy of the foregoing to be served via email and First Class Mail to:

Mr. Todd Rowan
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/s/ David E. Kovel
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