

**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.,

No. 11 Civ. 2613

Plaintiffs,

v.

CREDIT SUISSE GROUP AG, et al.,

Defendants.

**EXCHANGE-BASED PLAINTIFFS' MEMORANDUM OF LAW IN SUPPORT OF
MOTION FOR AN ORDER APPROVING THE DISTRIBUTION OF THE NET
SETTLEMENT FUND AND FOR REIMBURSEMENT OF CLAIMS
ADMINISTRATION EXPENSES**

TABLE OF CONTENTS

I. INTRODUCTION	1
II. RELEVANT BACKGROUND	2
A. The Court Previously Approved Distribution of Net Settlement Funds Relating to the Prior Settlements	2
B. A.B. Data Has Completed the Claims Administration of the Settlement with the Remaining Settling Defendants	2
1. Overview of the Settlement with the Remaining Settling Defendants	2
2. Overview of the Claims Administration	3
III. ARGUMENT	6
A. The Court Should Authorize Distribution of the Net Settlement Fund to Authorized Claimants	6
1. Timely and Valid Claims	6
2. Untimely But Otherwise Eligible Claims	7
B. The Court Should Accept the Claims Administrator’s Recommendations to Reject the Ineligible Claims	8
C. The Court Should Authorize Distribution of the Net Settlement Fund	9
D. Payment of Notice and Administrative Expenses and Amount of the Net Settlement Fund	10
E. The Release of Claims	10
IV. CONCLUSION	11

TABLE OF AUTHORITIES

Cases

<i>Alaska Elec. Pension Fund v. Bank of Am., Corp.</i> , No. 14 Civ 7126, 2020 WL 916853 (S.D.N.Y. Feb. 26, 2020)	8
<i>Blank v. Jacobs</i> , No. 03 Civ. 2111, 2013 WL 1310503 (E.D.N.Y. Mar. 27, 2013)	8
<i>In re Citigroup Inc. Secs. Litig.</i> , No. 09 Md 2070, 2014 WL 2445714 (S.D.N.Y. May 30, 2014)	8
<i>In re Goldome Secs. Litig.</i> , No. 88 Civ. 4765, 1991 WL 113263 (S.D.N.Y. June 20, 1991)	8
<i>In re Orthopedic Bone Screw Prods. Liab. Litig.</i> , 246 F.3d 315 (3d Cir. 2001)	7
<i>In re ValueVision Int’l Inc. Sec. Litig.</i> , No. 94 Civ. 2838, 1997 WL 786457 (E.D. Pa. Dec. 1, 1997)	7
<i>Zients v. LaMorte</i> , 459 F.2d 628 (2d Cir. 1972)	7

I. INTRODUCTION

Exchange-Based Plaintiffs¹ respectfully request approval to make a final distribution of settlement funds to Class members who have submitted claims that have been approved by the Court-appointed Claims Administrator, A.B. Data, Ltd. (“A.B. Data” or “Claims Administrator”). Kirby McInerney LLP and Lovell Stewart Halebian Jacobson LLP (collectively, “Class Counsel”) expect this will be the final distribution of all monies recovered on behalf of the Plaintiff Class.

On September 5, 2024, the Court granted final approval of the Settlement with the Remaining Defendants.² *See* ECF No. 4110. The Settlement with the Remaining Defendants for \$3.45 million increased the recovery in the Exchange-Based Action to \$190.45 million, which collectively represents the largest recovery for a “futures-only” class asserting claims under the Commodity Exchange Act (the “CEA”).

A.B. Data, the Court-appointed Claims Administrator, has advised Class Counsel that it has now completed all analyses and accounting procedures in connection with the submitted claims and has finalized its determination of which claims are authorized and which are ineligible to recover funds from the Settlement with the Remaining Settling Defendants. *See* Declaration of Jack Ewashko dated January 2, 2026 (“A.B. Data Decl.”), filed contemporaneously herewith.

¹ “Exchange-Based Plaintiffs” or “Plaintiffs” are Metzler Asset Management GmbH (f/k/a Metzler Investment GmbH), FTC Futures Fund SICAV, FTC Futures Fund PCC Ltd., Atlantic Trading USA, LLC, 303030 Trading LLC, Gary Francis, and Nathaniel Haynes. All capitalized terms in this memorandum have the same meaning as set forth in the Stipulation and Agreement of Settlement (“Stipulation”), dated April 8, 2024, attached as Exhibit 1 to the Declaration of David E. Kovel in Support of the Exchange-Based Plaintiffs’ Motion (“Kovel Decl.”), ECF No. 4011. Unless otherwise specified, all references to “ECF No.” herein refer to documents in the docket of the MDL Action, No. 11 MD 2262 (NRB) (S.D.N.Y.). Unless otherwise noted, all emphasis is added and internal citations are omitted.

² “Remaining Settling Defendants” or “Remaining Defendants” refers to: (i) Credit Suisse AG; (ii) Lloyds Bank plc and Bank of Scotland plc; (iii) NatWest Markets plc (f/k/a The Royal Bank of Scotland plc); (iv) Portigon AG (f/k/a WestLB) and Westdeutsche Immobilienbank AG (n/k/a Westdeutsche Immobilien Servicing AG); (v) Royal Bank of Canada and RBC Capital Markets, LLC; (vi) Coöperatieve Rabobank U.A. (f/k/a Coöperatieve Centrale Raiffeisen-Boerenleenbank B.A.); (vii) The Norinchukin Bank; (viii) MUFG Bank, Ltd. (f/k/a The Bank of Tokyo-Mitsubishi UFJ, Ltd.); and (ix) UBS AG. Credit Suisse AG merged with and into UBS AG and ceases to exist.

All that remains to complete the Settlement process is to distribute the Net Settlement Fund to the Authorized Claimants. Class Counsel therefore respectfully requests that the Court authorize, *inter alia*, the distribution of the Net Settlement Fund to Authorized Claimants, as identified in Exhibits A and B to the A.B. Data Declaration. Notably, as of today, A.B. Data and Class Counsel are unaware of any claimant who disputes or intends to challenge A.B. Data's recommended claims determination. A.B. Data Decl. ¶ 39.³

II. RELEVANT BACKGROUND

A. The Court Previously Approved Distribution of Net Settlement Funds Relating to the Prior Settlements

On September 17, 2020, the Court granted Final Approval to Exchange-Based Plaintiffs' Settlements with Bank of America, Barclays Bank Plc, Citi, Deutsche Bank, HSBC Bank Plc, JPMorgan, and Société Générale. On October 24, 2023, the Court authorized distribution of the funds relating to the Prior Settlements.⁴ *See* ECF No. 3840. A.B. Data subsequently distributed settlement funds to Authorized Claimants pursuant to the Court's Order. A.B. Data Decl. ¶ 2.

B. A.B. Data Has Completed the Claims Administration of the Settlement with the Remaining Settling Defendants

1. Overview of the Settlement with the Remaining Settling Defendants

The Settlement with the Remaining Settling Defendants, which resulted in an additional \$3,450,000 payment, represents the final resolution of Exchange-Based Plaintiffs' claims in this litigation. *See* Mem. of Law in Support of Final Approval, ECF No. 4094 at 1.

³ Pursuant to the Settlement Agreement, the Settling Defendants have no interest in the relief sought by this motion. *See* ECF No. 4011-1, Settlement Agreement ¶ 7(B) ("The Releasees and their counsel shall have no responsibility for, interest in, or liability whatsoever with respect to the investment or distribution of the Settlement Fund . . .").

⁴ "Prior Settlements" means the settlements with Bank of America, Barclays Bank Plc, Citi, Deutsche Bank, HSBC Bank Plc, JPMorgan, and Société Générale.

Pursuant to the Settlement Agreement, the Net Settlement Fund is to be distributed to Authorized Claimants in accordance with the Court-approved Plan of Distribution after, *inter alia*, the outstanding fees and expenses of claims administration and any tax liabilities are satisfied. *See* Settlement Agreement, ECF No. 4011-1 ¶ 9.

On April 26, 2024, the Court (i) preliminarily approved the Settlement between Exchange-Based Plaintiffs and the Settling Defendants, (ii) conditionally certified the Settlement Class, (iii) appointed Kirby McInerney LLP and Lovell Steward Halebian Jacobson LLP as Settlement Class Counsel, (iv) approved A.B. Data as the Settlement Administrator and Huntington Bank as the Escrow Agent, (v) approved Plaintiffs' Notice Program, and (vi) preliminarily approved the Plan of Distribution. *See* ECF No. 4028.

On September 5, 2024, the Court granted final approval of the Settlement. *See* ECF No. 4110. Also on September 5, 2024, the Court entered an order awarding attorneys' fees of 30% of the remainder of the Settlement Fund minus the amount of litigation expenses reimbursed and \$135,349.19 for reimbursement of litigation expenses. *See* ECF No. 4111.

As of January 2, 2026, the balance of the Settlement Fund, including accrued interest, is \$2,358,991.61. *See* ¶ 4 to the Declaration of David E. Kovel dated January 6, 2026 (the "Kovel Declaration"), filed contemporaneously herewith. Through January 2, 2026, the Net Settlement Fund has earned over \$160,000 in interest and continues to accrue daily interest. *Id.* ¶¶ 4-5.

2. Overview of the Claims Administration

Pursuant to the Settlement, the Court's Preliminary Approval Order, and the Court approved Notice, all Class Members wishing to be eligible to participate in the Settlements were required to submit Proof of Claim Forms, postmarked on or before October 21, 2024. As set forth herein, A.B. Data received 4,798 claims. A.B. Data recommends that 2,826 claims be accepted as Authorized Claims and that 1,972 claims be rejected.

Previously approved claims. Notably, as set forth in the Notice, Settlement Class Members who previously submitted valid claims were not required to resubmit claims to participate in the Settlement with the Remaining Settling Defendants. A.B. Data reports that 2,503 claims fall within this category. *See* A.B. Data Decl. ¶ 14.⁵

Newly submitted claims. As detailed in the accompanying A.B. Data Declaration, A.B. Data received a total of 4,798 total Proof of Claim Forms in connection with this Action, 4,116 of which were received for the Prior Settlements, and 682 of which were received pursuant to the new Settlement. A.B. Data Decl. ¶¶ 12, 15. Pursuant to the Settlement, A.B. Data received 13 hard-copy paper claims, zero claims via the online portal established on the Settlement Website, and a total of 669 claims were filed electronically. *Id.* ¶¶ 16, 19-20. A.B. Data has prepared detailed ledgers of: (i) all valid and timely claims by Authorized Claimants (*id.*, Ex. A); (ii) claims that were submitted after the filing deadline of October 21, 2024 but are otherwise valid (“Late Claims”) (*id.*, Ex. B); and (iii) claims that were rejected or deemed ineligible (*id.*, Ex. C). If approved, this distribution will provide eligible Claimants with their *pro rata* recovery calculated according to the Court-approved Plan of Distribution across the Net Settlement Fund. *Id.* ¶ 28.

A.B. Data’s claim validation process. A.B. Data made substantial efforts to contact Claimants that had submitted ineligible or deficient claims (such as lacking the required information or documentation to substantiate the Claimant’s transactions during the Settlement Class Period) and instruct them on how to cure any such deficiencies. A.B. Data Decl. ¶ 29. A.B. Data mailed (or e-mailed, in the case of electronic claims) rejection notices to Claimants, describing the defect(s) with the claim and stating what, if anything, was necessary to cure the claim. *Id.* ¶¶ 34-36; A.B. Data Decl. Ex. D (sample rejection notice). The rejection notices also

⁵ *See* Declaration of Steven Straub, ECF No. 3726 ¶ 19.

informed the Claimant that failure to cure the deficiencies may lead to rejection of his, her, or its claim. A.B. Data Decl. ¶ 35(b).

A.B. Data also performed additional various targeted audits of large claims, unusually large individual claims, questionable claims, and certain bulk filer claims. *Id.* ¶¶ 40-46. Each Claimant selected for audit was advised that failing to timely respond and provide the requested trade confirmation data within a specified time period would result in the Claim being rejected in its entirety. *Id.* ¶ 42; A.B. Data Decl. Ex. E. (sample audit letter).

After completion of the deficiency and audit processes, A.B. Data sent final disposition letters which documented whether the Claim or certain transactions were rejected and the reason for the rejection. The letters also included the Recognized Net Loss and Recognized Net Volume calculation (if applicable) for each Claimant if the Claim was accepted. A.B. Data Decl. ¶ 49; A.B. Data Decl. Ex. F. (sample final disposition letter). The letters gave Claimants the opportunity to request additional review of their Claim, contest the determination, or provide additional documentation. *Id.* ¶ 50.

A.B. Data's claim determinations. Of the 682 new claims received, A.B. Data Determined that 359 claims were ineligible to participate because the claims: (i) did not indicate any eligible transactions during the Settlement Class Period or did not calculate to any Recognized Net Loss; (ii) were duplicative, withdrawn, or replaced claims; and (iii) had uncured deficiencies, including insufficient information and/or documentation to support the claim. *Id.* ¶¶ 27-28, 30-33. In each case, as applicable, these Claimants received a rejection letter and/or an opportunity to cure the claim. *Id.* ¶¶ 34-38.

To date, A.B. Data is unaware of any Claimant that presently disagrees with A.B. Data's administrative determinations, and no Claimant has requested Court review of A.B. Data's determinations. *Id.* ¶ 39.

III. ARGUMENT

A. The Court Should Authorize Distribution of the Net Settlement Fund to Authorized Claimants

Authorized Claimants who received payment from the Prior Settlements were not required to resubmit proof of claims to participate in the Settlement. *See* Exhibit E to the Declaration of Elaine Pang, Long Form Notice, ECF No. 4012-5. The Court previously authorized distribution of funds from the Prior Settlements to the 2,503 Authorized Claimants listed in Exhibits A and B to the Declaration of Steven Straub, ECF No. 3726. There were 323 new Authorized Claimants. A.B. Data Decl. ¶ 28.

Each Authorized Claimant will receive his, her, or its *pro rata* share of the Net Settlement Fund under the Plan of Distribution. *See* ECF No 4011-1. Specifically, the Plan of Distribution provides for distribution of 75% of the Net Settlement Fund on the basis of *pro rata* "Recognized Net Loss" and 25% on the basis of *pro rata* "Recognized Volume," subject to a guaranteed minimum payment of \$20. *Id.* In sum, A.B. Data Determined that there were 2,826 eligible claims, 323 of which were new claims, including both (i) timely claims and (ii) untimely but otherwise eligible claims. *Id.* A.B. Data D. A.B. Data calculated that the 2,826 eligible claims, including both timely and late (see below) had a total Recognized Net Loss of \$16,780,180,305.55 and a Recognized Volume of 1,797,254,271.61 under the Plan of Distribution. A.B. Data Decl. ¶ 26.

1. Timely and Valid Claims

There were 2,620 Authorized Claimants who submitted timely and valid claims postmarked on or before the Court-approved claims filing deadline of October 21, 2024, including

those that were accepted for the Prior Settlements. *Id.* at ¶¶ 22-24; A.B. Data Decl. Ex. A. A.B. Data calculated that timely and valid claims had a total Recognized Net Loss of \$12,949,643,358.47 and a Recognized Volume of 1,649,742,159.10 under the Plan of Distribution. Class Counsel respectfully request that the Court approve the 2,620 Timely Authorized Claimants listed in Exhibit A of the A.B. Data Declaration. *Id.*

2. Untimely But Otherwise Eligible Claims

Until the Net Settlement Fund is actually distributed, this Court retains broad and inherent equitable powers to include claims that were submitted late. *See Zients v. LaMorte*, 459 F.2d 628, 630 (2d Cir. 1972) (“[u]ntil the fund created by the settlement is actually distributed, the court retains its traditional equity powers.”). In addition, the Settlement Agreement contemplates that under certain circumstances, the Court may extend the deadline for Class Members to submit Claims to be potentially eligible to participate in the Settlement. *See* Settlement Agreement, ECF No. 4011-1 ¶ 9(ii) (“Except as otherwise ordered by the Court, each Settlement Class Member who fails to submit a Proof of Claim and Release within such period as may be ordered by the Court, *or otherwise allowed . . .*”) (emphasis added).⁶

A.B. Data received Proof of Claim Forms after the October 21, 2024 submission deadline and adjustments and corrections to existing claims through October 31, 2025. *Id.* ¶ 25, 54. A.B. Data processed all Late Claims and has determined that the total number of Authorized Claimants submitting valid Late Claims is 206. *Id.*; A.B. Data Decl. Ex. B. A.B. Data calculated that untimely

⁶ Courts have the equitable power to include late-filed claims as part of a settlement distribution even where the parties agreed to a claims deadline pursuant to the terms of a settlement agreement. *See, e.g., Zients*, 459 F.2d at 630-31 (“[W]here, as here, all the equities are on the side of the claimants, the fund has not been distributed and the administration of the fund would be insignificantly hampered by allowing these few late claims, appellants should be permitted to participate in the fund.”); *In re ValueVision Int’l Inc. Sec. Litig.*, No. 94 Civ. 2838, 1997 WL 786457, at *1 (E.D. Pa. Dec. 1, 1997) (allowing claims submitted after claims deadline because there was no delay in claims administration process); *In re Orthopedic Bone Screw Prods. Liab. Litig.*, 246 F.3d 315, 321 (3d Cir. 2001) (court allowed a late claim where all class members were asserting claims on a “finite pool of assets.”).

but otherwise eligible claims had a total Recognized Net Loss of \$3,830,536,947.08 and a Recognized Volume of 147,512,112.51 under the Plan of Distribution. *Id.* ¶ 25.

In order to facilitate the efficient and proportional distribution of the Net Settlement Fund, however, there must be a final cut-off after which no other claims may be accepted. Class Counsel respectfully requests that the distribution order provide that no claim received after October 31, 2025, may be accepted for any reason whatsoever and no further adjustments or corrections to Claims submitted after October 31, 2025, may be accepted. A.B. Data Decl. ¶ 55.

Accordingly, Class Counsel respectfully request that the Court approve A.B. Data's administrative recommendations to accept the 206 Late Claims listed in Exhibit B of the A.B. Data Declaration.

B. The Court Should Accept the Claims Administrator's Recommendations to Reject the Ineligible Claims

A.B. Data rejected a total of 1,972 claims. A.B. Data mailed (or e-mailed, in the case of electronic claims) each of these Claimants a rejection letter. A.B. Data Decl. ¶¶ 27, 49; *see, e.g.*, A.B. Data Decl. Exs. C and D. The reasons for rejections included: (i) claims did not involve transactions or calculate to a Recognized Net Loss during the Settlement Class Period; (ii) claims were duplicate, withdrawn, or replaced claims; and (iii) claims were deficient and were never cured. *Id.* ¶¶ 27-28.⁷

⁷ *In re Citigroup Inc. Secs. Litig.*, No. 09 Md 2070, 2014 WL 2445714, at *2-3 (S.D.N.Y. May 30, 2014) (upholding claims administrator's rejection of claims where claimants did not hold shares during the necessary time period and therefore "suffered no loss"); *In re Goldome Secs. Litig.*, No. 88 Civ. 4765, 1991 WL 113263, at *1, *3 (S.D.N.Y. June 20, 1991) (accepting claims administrator's rejection of claims where the claimant "failed to correct a deficiency in the documents provided to the claims administrator after being given notice"); *Alaska Elec. Pension Fund v. Bank of Am., Corp.*, No. 14 Civ 7126, 2020 WL 916853, at *4 (S.D.N.Y. Feb. 26, 2020), *aff'd sub nom. Alaska Elec. Pension Fund v. Fortinbras Asset Mgmt. GmbH*, 835 F. App'x 647 (2d Cir. 2021) (accepting claims administrator's decision to reject claim where claimant was unable to provide documentation proving that submitted transactions actually occurred); *Blank v. Jacobs*, No. 03 Civ. 2111, 2013 WL 1310503, at *5 (E.D.N.Y. Mar. 27, 2013) (accepting claims administrator's "decision to reject any claims not properly documented unless any of those claimants has been able to cure the deficiencies").

Accordingly, Class Counsel respectfully requests that the Court reject these ineligible claims listed in Exhibit C of the A.B. Data Declaration.

C. The Court Should Authorize Distribution of the Net Settlement Fund

As more fully described in the A.B. Data Declaration ¶ 56, the Claims Administrator will conduct an Initial Distribution to Authorized Claimants pursuant to the Court-approved Plan of Distribution. The Plan of Distribution provides for distribution of 75% of the Net Settlement Fund on the basis of pro rata “Recognized Net Loss” and 25% on the basis of pro rata “Recognized Volume,” subject to a guaranteed minimum payment of \$20.00. Specifically, as proposed, Authorized Claimants whose Recognized Net Loss calculates to greater than \$0.00 and \$19.99 or less shall receive a minimum payment of \$20.00 (the “Minimum Payment”) from these Settlements in the Initial Distribution and will not be eligible to receive any further distribution from the Net Settlement Fund. The total amount of this Minimum Payment comprises approximately 1.61% of the Net Settlement Fund, or \$37,160.00, and will reallocate just 1.33% of the Net Settlement Fund towards paying these Claimants. A.B. Data Decl. ¶ 56(a)(2).

After excluding Authorized Claimants who will receive the Minimum Payment, any Authorized Claimant whose Distribution Amount recalculates to \$20.00 or more will receive their *pro rata* Distribution Amount from the remaining balance of the Net Settlement Fund (“Initial Distribution”). If there is any balance remaining in the Net Settlement Funds after a reasonable period after the Initial Distribution, following consultation with Class Counsel, the Claims Administrator shall, if cost-effective, conduct additional distributions until it is determined that further re-distribution is not cost-effective. *Id.* ¶ 56(d). If further re-distribution of the funds remaining in the Net Settlement Funds is not cost-effective, the remaining balance of the Net Settlement Funds shall be donated distributed to a nonsectarian, not-for-profit 501(c)(3) organization(s) recommended by Class Counsel and approved by the Court. *Id.* ¶ 56(e).

D. Payment of Notice and Administrative Expenses and Amount of the Net Settlement Fund

Pursuant to the order granting preliminary approval of the Settlement, the Court approved fees and expenses for the notice and administration of the Settlements totaling \$200,000.⁸

To date, Class Counsel has paid \$106,984.34 in Notice and Administration Expenses from the Net Settlement Fund. Such payments cover administration services including, *inter alia*: (i) handling incoming and returned mail; (ii) responding to Class Member inquiries regarding the claims process (including maintaining a call center and responding to questions); (iii) updating and maintaining the online claims portal and settlement website; (iv) developing a proprietary calculation module to calculate each Authorized Claimant's share of the Net Settlement Fund pursuant to the Court-approved Plan of Distribution; (v) analyzing Claimant transaction data to determine eligible claims; (vi) processing claims; (vii) distributing deficiency and final disposition letters; and (viii) processing responses to deficiency and final disposition letters.

A.B. Data estimates the cost of its future work in distributing the Net Settlement Fund to be \$27,269.93. *See* A.B. Data Decl. ¶ 57, Ex. G (estimate to conduct distributions). Therefore, Class Counsel requests that A.B. Data be paid \$27,269.93 from the Net Settlement Fund.⁹

E. The Release of Claims

In order to allow the full and final distribution of the Net Settlement Fund, it is respectfully requested that the Court bar any further claims against the Net Settlement Fund beyond the amount allocated to Authorized Claimants, and to provide that all Persons involved in the review, verification, calculation, tabulation, or any other aspect of the processing of the Proof of Claim

⁸ *See* Settlement Agreement, ECF No. 4011-1 at ¶ 8(B).

⁹ If the estimate of fees and expenses to conduct the distributions is greater than the actual cost to conduct the distributions, the excess will be returned to the Net Settlement Fund.

Forms submitted herein, or otherwise involved in the administration or taxation of the Settlement Funds or Net Settlement Fund, be released and discharged from any and all claims arising out of such involvement, provided, however, that the Court's distribution order shall not release any claim by Exchange-Based Plaintiffs against the Claims Administrator with respect to distributions, if any, if later discovered to have been made not substantially in accordance with the Stipulation, the Plan of Allocation, or any order of the Court.

IV. CONCLUSION

For the foregoing reasons, Class Counsel respectfully request that this Court issue the accompanying Proposed Order Authorizing Distribution of Net Settlement Fund granting the relief sought herein.

Dated: January 5, 2026

KIRBY McINERNEY LLP

By: /s/ David E. Kovel

David E. Kovel

Thomas W. Elrod

250 Park Avenue, Suite 820

New York, New York 10177

Telephone: (212) 371-6600

dkovel@kmlp.com

telrod@kmlp.com

Anthony F. Fata

211 West Wacker Drive, Suite 550

Chicago, IL 60606

Telephone: (312) 767-5180

afata@kmlp.com

**LOVELL STEWART HALEBIAN
JACOBSON LLP**

By: /s/ Christopher Lovell

Christopher Lovell

Jody R. Krisiloff

500 Fifth Avenue, Suite 2440

New York, NY 10110

Telephone: (212) 608-1900

clovell@lshllp.com

jkrisiloff@lshllp.com

*Counsel for the Exchange-Based Plaintiffs and the
Settlement Class*