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October 19, 2017

VIA ECF AND HAND DELIVERY

The Honorable Naomi Reice Buchwald
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street
New York, New York 10007-1312

Re: In re LIBOR-Based Financial Instruments Antitrust Litigation, Case No.
11-md-2262

Dear Judge Buchwald:

We have attached as Exhibit A a revised proposed order granting the OTC Plaintiffs' Motion for Final Approval of Settlement with Barclays Bank PLC. We have also attached as Exhibit B a redline to the proposed order filed on October 17 (Dkt. 2321-1).

The revised proposed order reflects the changes discussed on the telephone conference on October 18, 2017.

Respectfully Submitted,

/s/ William Christopher Carmody

William Christopher Carmody

EXHIBIT A

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

IN RE LIBOR-BASED FINANCIAL INSTRUMENTS ANTITRUST LITIGATION	MDL No. 2262
THIS DOCUMENT RELATES TO:	Master File No. 1:11-md-2262-NRB ECF Case
The OTC Action	Honorable Naomi R. Buchwald

**[PROPOSED] FINAL JUDGMENT AND ORDER GRANTING FINAL APPROVAL OF
SETTLEMENT WITH BARCLAYS BANK PLC**

WHEREAS, an action is pending before this Court styled *Mayor and City Council of Baltimore v. Credit Suisse Group AG, et al.*, No. 1:11-md-2262-NRB (the “OTC Action”);

WHEREAS, OTC Plaintiffs¹ have moved, pursuant to Federal Rule of Civil Procedure 23(e), for an order (a) granting final approval to the settlement with Barclays Bank PLC (the “Settlement” or “OTC Settlement”);² (b) certifying the Settlement Class (defined in paragraph 6 *infra*); (c) granting final approval to the Plan of Distribution (defined in paragraph 5 *infra*); (d) appointing Hausfeld LLP and Susman Godfrey L.L.P. as Co-Lead Counsel for the Settlement Class; (e) granting final approval to the Class Notice (defined in paragraph 11 *infra*); and (f) appointing Mr. Kenneth Feinberg as the Settlement Administrator and Huntington Bank as the Escrow Agent;

WHEREAS, persons or entities who entered into qualifying transactions with non-settling Defendants³ (and their subsidiaries and affiliates) can participate in this Settlement in

¹ Paragraph 1 of the Settlement Agreement, as modified by the Errata to Settlement Agreement Between OTC Plaintiffs and Barclays Bank PLC, Dkt. No. 1338, defines “OTC Plaintiffs” as: “the Mayor and City Council of Baltimore; City of New Britain; Texas Competitive Electric Holdings Company LLC; Yale University; Jennie Stuart Medical Center, Inc.; Variety Children’s Hospital d/b/a Miami Children’s Hospital; Highlander Realty LLC; and SEIU Pension Plans Master Trust.”

² The settlement agreement memorializing the terms of the Settlement (“Settlement Agreement” or “Agreement”) was entered into on November 11, 2015 and submitted to the Court as Exhibit A to the Declaration of Michael D. Hausfeld in Support of Plaintiffs’ Motion for Preliminary Approval of Settlement with Barclays Bank PLC, Dkt. No. 1338. All references to docket entries in this Final Judgment and Order are references to Case No. 11-md-2262 (S.D.N.Y).

³ Paragraph 2(l) of the Settlement Agreement defines “Defendants” as: “Credit Suisse Group AG; Credit Suisse International; Credit Suisse (USA) Inc.; Bank of America Corporation; Bank of America, N.A.; JPMorgan Chase & Co.; JPMorgan Chase Bank, NA; HSBC Holdings PLC; HSBC Bank PLC; Barclays Bank plc; Lloyds Banking Group PLC; WestLB AG; Westdeutsche Immobilienbank AG; UBS AG; The Royal Bank of Scotland Group PLC; Citizens Bank of Massachusetts a/k/a RBS Citizens Bank N.A.; Deutsche Bank AG; Citibank NA; Citigroup Inc.; Coöperatieve Centrale Raiffeisen Boerenleenbank B.A.; The Norinchukin Bank; The Bank of Tokyo-Mitsubishi UFJ, Ltd;

part because the OTC Action includes antitrust claims under which Barclays Bank PLC can allegedly be held jointly and severally liable for the alleged conduct of all Defendants;

WHEREAS, the Court has considered the Settlement Agreement and other documents submitted in connection with OTC Plaintiffs' Motion for Final Approval of Settlement with Barclays Bank PLC, and good cause appearing therefor;

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

1. This Court has subject matter jurisdiction over this action and personal jurisdiction over OTC Plaintiffs, Barclays Bank PLC, and all members of the OTC Class (defined in paragraph 6 *infra*).

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

I. FINAL APPROVAL OF SETTLEMENT

3. Upon review of the record, including the orders preliminarily approving the Settlement and the submissions in support of the Settlement and preliminary certification, the Court finds that the Settlement resulted from arm's-length negotiations between highly experienced counsel and falls within the range of possible approval.

4. Pursuant to Rule 23(e) of the Federal Rules of Civil Procedure, the Court hereby grants final approval of the Settlement on the basis that it is fair, reasonable, and adequate as to, and in the best interests of, all OTC Class Members⁴, within the meaning of, and in compliance

HBOS PLC; Société Générale S.A.; Royal Bank of Canada; and any other Person or Persons who are named as defendants in the OTC Action at any time up to and including the date a Preliminary Approval Order is issued." Dkt. 1338 ¶ 2(l).

⁴ Paragraph 2(z) of the Settlement Agreement defines "OTC Class Member" as: "A Person who is a member of the OTC Class and has not timely and validly excluded himself, herself, or itself in accordance with the procedures established by the Court."

with all applicable requirements of, Federal Rule of Civil Procedure 23; the Court directs the Settlement's consummation according to its terms. In reaching this conclusion, the Court has 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 as follow:

- a. The Settlement was negotiated by counsel with significant experience litigating antitrust class actions and is the result of vigorous arm's length negotiations undertaken in good faith and with the assistance of a professional mediator experienced in complex cases;
- b. This action is likely to involve contested and serious questions of law and fact, such that the value of an immediate monetary recovery, in conjunction with the value of the prospective relief set forth in the Settlement, outweigh the uncertain possibility of future relief after protracted and expensive litigation; and
- c. Interim Co-Lead Counsel's⁵ judgment that the settlement is fair and reasonable, and the OTC Class Members' reaction to the Settlement, is entitled to great weight.

II. FINAL APPROVAL OF THE PLAN OF DISTRIBUTION

5. Upon review of the record, the Court finds that the pro rata Plan of Distribution⁶ has a reasonable, rational basis and is fair and adequate. Therefore, the Plan of Distribution is hereby finally approved.

⁵ Susman Godfrey L.L.P. and Hausfeld LLP are Interim Co-Lead Counsel for the OTC Class.

⁶ The Plan of Distribution is found at Docket Entry 2239-1.

III. CERTIFICATION OF THE SETTLEMENT CLASS

6. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, the Court certifies, solely for purposes of effectuating the settlement set forth in the Settlement Agreement, the following settlement class (the “Class” or “OTC Class” or “Settlement Class”):

All persons or entities (other than Defendants and their employees, affiliates, parents, and subsidiaries) that purchased in the United States, directly from a Defendant (or a Defendant’s subsidiaries or affiliates), a U.S. Dollar LIBOR-Based Instrument and that owned the U.S. Dollar LIBOR-Based Instrument any time during the period August 2007 through May 2010 (the “Class Period”).⁷

7. The Court’s certification of the Class as provided herein is without prejudice to, or waiver of the rights of, any defendant to contest certification of any other class proposed in these actions (i.e., the actions included in the above-captioned multi-district litigation). The Court’s findings in this Final Judgment and Order shall have no effect on the Court’s ruling on any motion to certify any class in these actions, and no party may cite or refer to the Court’s

⁷ Specifically excluded from the Class are Defendants; Released Parties; co-conspirators; the officers, directors, or employees of any Defendant, Released Party, or co-conspirator; any entity in which any Defendant, Released Party, or co-conspirator has a controlling interest; any affiliate, legal representative, heir, or assign of any Defendant, Released Party, or co-conspirator and any person acting on their behalf. Also excluded from the Class are any judicial officers presiding over this action and the members of his/her immediate families and judicial staff, and any juror assigned to the OTC Action. Dkt. 1338 ¶ 3(b).

Paragraph 2(qq) of the Settlement Agreement defines “U.S. Dollar LIBOR-Based Instrument” as: “An instrument that includes any term, provision, obligation or right to be paid or to receive interest based upon the U.S. Dollar LIBOR rate, including but not limited to asset swaps, collateralized debt obligations, credit default swaps, forward rate agreements, inflation swaps, interest rate swaps, total return swaps, options or floating rate notes. For the avoidance of doubt, U.S. Dollar LIBOR-Based Instrument does not include an instrument that includes only a term, provision, obligation or right to pay interest based upon the U.S. Dollar LIBOR rate, such as business, home, student or car loans, or credit cards.” Dkt. 1338 ¶ 2(qq).

approval of the Class as persuasive or binding authority with respect to any motion to certify any such class. The findings that follow in paragraphs 8–9 are limited to this particular order and are made only in the context of this particular settlement.

8. The Court finds that the requirements of Rule 23 are satisfied solely for the purpose of effectuating the Settlement as follows:

- a. Pursuant to Rule 23(a)(1), the Court determines that the members of the Class are so numerous that their joinder before the Court would be impracticable;
- b. Pursuant to Rule 23(a)(2), the Court determines that OTC Plaintiffs have alleged one or more questions of fact or law common to the Class;
- c. Pursuant to Rule 23(a)(3), the Court determines that OTC Plaintiffs' claims are typical of the claims of the Class;
- d. Pursuant to Rule 23(a)(4), the Court determines that OTC Plaintiffs will fairly and adequately protect the interests of the Class;
- e. Pursuant to Rule 23(b)(3), the Court determines that common questions of law and fact predominate over questions affecting only individual members; and
- f. Pursuant to Rule 23(b)(3), the Court determines that a class resolution is superior to other available methods for the fair and efficient adjudication of this action.

9. If the Effective Date⁸ does not occur with respect to the Settlement because of the failure of a condition that affects the Settlement, this certification of the Class shall be deemed null and void as to the parties subject to the Settlement without the need for further action by the Court or Barclays. In such circumstances, Barclays shall retain its 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 grounds.

IV. CLASS COUNSEL

10. Pursuant to Rule 23(g) of the Federal Rules of Civil Procedure, and solely for settlement purposes, the following firms are designated as settlement class counsel (“Class Counsel”) for the Class:

HAUSFELD LLP
1700 K Street, NW, Suite 650
Washington, DC 20006
Tel: 202-540-7200

SUSMAN GODFREY L.L.P.
1301 Avenue of the Americas, 32nd Floor
New York, NY 10019
Tel: 212-336-8334

⁸ Pursuant to paragraph 6(a) of the Settlement Agreement: “The Effective Date of Settlement shall be the date when all of the following events shall have occurred and shall be conditioned on the occurrence of all of the following events: (i) The contribution to the Settlement Fund has been made pursuant to this Agreement; (ii) Entry of the Preliminary Approval Order; (iii) Final approval by the Court of the settlement set forth in this Agreement, following Class Notice and the Fairness Hearing; (iv) No Party has exercised his, her, or its rights to terminate this Agreement pursuant to Paragraphs 10(c), 13(a), 13(c), or 13(d); and (v) Entry by the Court of a Final Judgment and Order of Dismissal, and the Final Judgment and Order of Dismissal becomes final, or, in the event that the Court enters an Alternative Judgment and neither Class Plaintiffs nor Barclays elects to terminate this Agreement, and such Alternative Judgment becomes final.” Dkt. 1338 ¶ 6(a).

V. FINAL APPROVAL OF CLASS NOTICE

11. Upon review of the record, the Court finds that the Class Notice⁹ constituted due, adequate, and sufficient notice of the settlement and was the best practicable under the circumstances and satisfied the requirements of Federal Rules of Civil Procedure 23(c)(2)(B) and 23(e)(1), due process, and any other applicable law. Therefore, the Class Notice is finally approved.

VI. APPOINTMENT OF SETTLEMENT ADMINISTRATOR AND ESCROW AGENT

12. Upon review of the record, the Court finds that Mr. Kenneth Feinberg and Huntington National Bank are qualified to serve as Settlement Administrator¹⁰ and Escrow Agent,¹¹ respectively. Therefore, Mr. Kenneth Feinberg is appointed as Settlement Administrator and Huntington National Bank is appointed as Escrow Agent.

⁹ Class Notice is defined in the Settlement Agreement as: “The Notice and Summary Notice, collectively.” Dkt. 1338 ¶ 2(i). The Settlement Agreement defines the “Notice” as “The Notice of Proposed Settlement of Class Action to be provided to the Class as provided in this Agreement and the Preliminary Approval Order” and the “Summary Notice” as “The summary notice of proposed settlement and hearing for publication.” Dkt. 1338 ¶¶ 2(w), (nn). The Class Notice is described in detail in OTC Plaintiffs’ Motion for Final Approval of Settlement with Barclays Bank PLC, Dkt. 2276, at 2–4, 15–17; the Declaration of Shannon R. Wheatman, Dkt. 2275-1; and the Declaration of Jason Rabe, Dkt. 2275-2.

¹⁰ Pursuant to paragraph 7(c) of the Settlement Agreement: “The Settlement Administrator shall assist in the development of the Plan of Distribution and the resolution of any disputes between OTC Class Members and the Claims Administrator pursuant to the Plan of Distribution.” Dkt. 1338 ¶ 7(c).

¹¹ Pursuant to paragraph 10(a) of the Settlement Agreement: “The Settlement Fund shall be established as an escrow account and administered by the Escrow Agent, subject to approval by the Court.” Dkt. 1338 ¶ 10(a).

VII. OTHER PROVISIONS

13. The Court approves and directs the implementation of all the terms of the Settlement.

14. If this Final Judgment and Order is set aside, materially modified, or overturned by this Court or on appeal, and is not fully reinstated on further appeal, this Final Judgment and Order certifying the Class shall be vacated *nunc pro tunc*.

15. Except as to any individual claim of those Persons who have validly and timely requested exclusion from the Class (“Opt-Outs”), all Released Parties¹² and Releasing Parties¹³ are bound by this Final Judgment and Order and by the Settlement Agreement.

16. Except as to the Opt-Outs, the Court dismisses the OTC Action, as well as all of the Released Claims,¹⁴ against any of the Released Parties by the Releasing Parties, with

¹² Pursuant to paragraph 2(gg) of the Settlement Agreement “Released Parties” are defined as: “Barclays and each of its 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), predecessors, successors, and each of their respective officers, directors, employees, agents, attorneys, legal or other representatives, trustees, heirs, executors, administrators, advisors, and assigns. Released Parties does not include: (i) any of the other Defendants; or (ii) any other Person formerly named as a party in the OTC Action.” Dkt. 1338 ¶ 2(gg).

¹³ Pursuant to paragraph 2(hh) of the Settlement Agreement “Releasing Parties” are defined as: “Individually and collectively, Class Plaintiffs and each OTC Class Member, on behalf of themselves and any of their respective past or present officers, directors, stockholders, agents, employees, legal representatives, partners, associates, trustees, parents, subsidiaries, divisions, affiliates, heirs, executors, administrators, purchasers, predecessors, successors, and assigns, whether or not they object to the settlement set forth in this Agreement and whether or not they make a claim for payment from the Net Settlement Fund.” Dkt. 1338 ¶ 2(hh).

¹⁴ Pursuant to paragraph 2(ff) of the Settlement Agreement “Released Claims” are defined as: “Any and all manner of 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,

prejudice. The Parties are to bear their own costs, except as otherwise provided in the Settlement, provided that such dismissal shall not affect, in any way, the right of the Releasing Parties to pursue claims, if any, outside the scope of the Released Claims.

17. Any Opt-Outs have timely and validly requested exclusion from the Class and are hereby excluded from the Class, not bound by this Final Judgment and Order, and may not make any claim or receive any benefit from the Settlement, whether monetary or otherwise.

18. Upon the Effective Date, the Releasing Parties: (a) shall be deemed to have hereby fully and irrevocably waived, released, relinquished, and discharged all Released Claims against the Released Parties, regardless of whether such Releasing Party executes and delivers a proof of claim; (b) shall be forever enjoined from prosecuting in any forum any Released Claim against any of the Released Parties; and (c) agree and covenant not to sue any of the Released Parties on the basis of any Released Claims or to assist any third party in commencing or maintaining any suit against any Released Party related in any way to any Released Claims.

19. Notwithstanding the foregoing, persons or entities that only purchased bonds issued by entities other than a Defendant (or a Defendant's subsidiary or affiliate) are not

finances, debts, expenses, attorneys' fees, and damages, whenever incurred, and liabilities of any nature whatsoever (including joint and several), known or unknown, suspected or unsuspected, asserted or unasserted, arising from or relating in any way to any conduct alleged or that could have been alleged in and arising from the factual predicate of the OTC Action; provided, however, that Released Claims do not include (1) claims that are the subject of the Settlement Agreement, dated October 7, 2014, between Barclays and the Exchange-Based Plaintiffs, specifically claims arising from or relating in any way to any conduct alleged in the Exchange-Based Plaintiffs' Action or that could have been alleged in the Exchange-Based Plaintiffs' Action concerning Eurodollar future contracts or options; (2) claims arising under foreign law related to transactions outside the United States; or (3) claims to enforce any of the terms of this Agreement. For the avoidance of doubt, Released Claims does not include claims relating to or arising out of the purchase of non-U.S. Dollar LIBOR-Based Instruments or any other claims that do not arise out of the factual predicate of the OTC Action, such as a claim to complete the settlement or otherwise enforce the terms of a U.S. Dollar LIBOR-Based Instrument." Dkt. 1338 ¶ 2(ff). This term is subject to the limitations in paragraphs 19-20 *infra*.

members of the OTC Class. Further, claims that are alleged in the Bondholder Plaintiff Action (Case No. 12 CV 1025 (NRB)) concerning U.S. Dollar LIBOR-Based Debt Securities¹⁵ are not released by the OTC Settlement. Thus, any claim based on a U.S. Dollar LIBOR-Based Debt Security may be asserted only against the Barclays' settlement of the Bondholder Plaintiff Action ("Bondholder Settlement") (and not the OTC Settlement), and will only be released pursuant to the Bondholder Settlement. Likewise, any claim based on a debt security tied to U.S. Dollar LIBOR that was issued by a Defendant (or a Defendant's subsidiary or affiliate) as obligor and was purchased directly from a Defendant (or a Defendant's subsidiary or affiliate) may be asserted only against the OTC Settlement (and not the Bondholder Settlement), and will only be released pursuant to the OTC Settlement. Any OTC Class Member who is also a member of the class alleged in the Bondholder Plaintiff Action will be entitled to assert claims to share in the settlement funds established in both actions in accordance with the limitations set forth in this paragraph. Similarly, any member of the class in the Bondholder Plaintiff Action who is also a member of the OTC Class will be entitled to assert claims to share in both settlement funds in accordance with the limitations set forth in this paragraph.

¹⁵ "U.S. Dollar LIBOR-Based Debt Securities" means any U.S. Dollar-denominated debt security (a) that was assigned a unique identification number by the CUSIP system; (b) on which interest was payable at any time during August 1, 2007 through May 31, 2010; and (c) where that interest was payable at a rate based on U.S. Dollar LIBOR. U.S. LIBOR-Based Debt Securities include, but are not limited to, any such bonds, corporate bonds, municipal bonds, government bonds, asset backed securities, residential mortgage backed securities, commercial mortgage backed securities, collateralized debt obligations and collateralized loan obligations. Excluded from the definition of U.S. Dollar LIBOR-Based Debt Securities are any such securities that were issued by any Defendant or its subsidiaries or affiliates as obligor. "CUSIP" stands for Committee on Uniform Securities Identification Procedures.

20. In addition, claims concerning U.S. Dollar LIBOR-Based Instruments purchased from one or more Non-Defendant OTC Financial Institutions¹⁶ which are alleged in *33-35 Green Pond Road Assocs. LLC v. Bank of America Corp., et al.* (Case No. 12 CV 5822 (NRB)) and *Courtyard at Amwell II, LLC, et al. v. Bank of America Corp., et al.* (Case No. 12 CV 6693 (NRB)) class actions (collectively the “Non-Defendant OTC Action”) are not released by the OTC Settlement. Accordingly, any OTC Class Member who is also a member of the class alleged in the Non-Defendant OTC Action will be entitled to assert claims to share in any settlement funds established in both actions. A member of the OTC Class may also be a member of a potential class in the Non-Defendant OTC Action. If that is the case, that entity can make claims from any settlement funds established in both actions. Thus, a person or entity who purchased U.S. Dollar LIBOR-Based Instruments from Non-Defendant OTC Financial Institutions and also purchased U.S. Dollar LIBOR-Based Instruments directly from a Defendant (or subsidiary or affiliate of a Defendant) will be legally entitled to assert a claim to share in any settlement by Barclays of the Non-Defendant OTC Action based on purchases of U.S. Dollar LIBOR-Based Instruments from Non-Defendant OTC Financial Institutions, and will also be legally entitled to assert a claim to share in the OTC Settlement based on U.S. Dollar LIBOR-Based Instruments purchased directly from a Defendant (or subsidiary or affiliate of a Defendant), but will not be legally entitled to assert a claim to share in the OTC Settlement based

¹⁶ The “Non-Defendant OTC Financial Institutions” are Wells Fargo & Company; Goldman Sachs Group, Inc.; Morgan Stanley; Metlife, Inc.; U.S. Bancorp; The PNC Financial Services Group, Inc.; The Bank of New York Mellon Corporation; Capital One Financial Corporation; Ally Financial Inc.; Suntrust Banks, Inc.; BB&T Corporation; TD Bank US Holding Company; State Street Corporation; American Express Company; Regions Financial Corporation; Fifth Third Bancorp; Keycorp Cleveland; Northern Trust Corporation; Bancwest Corporation; M&T Bank Corporation; Harris Financial Corp.; BBVA USA Bancshares, Inc., as well as any of their subsidiaries or affiliates.

on purchases of U.S. Dollar LIBOR-Based Instruments from Non-Defendant OTC Financial Institutions.

21. This Final Judgment and Order shall not affect, in any way, the right of the OTC Plaintiffs or OTC Class Members to pursue claims, if any, outside the scope of the Released Claims.

22. The Settlement, acts performed in furtherance of the Settlement and/or documents executed in furtherance of the Settlement may not be deemed or used as evidence of an admission or other statement supporting: (a) the validity of any claim made by OTC Plaintiffs, OTC Class Members, or Class Counsel (including the appropriateness of class certification); (b) any wrongdoing or liability of the Released Parties; or (c) any fault or omission of the Released Parties in any court, administrative agency, or other proceeding.

23. The Settlement shall not be offered or be admissible in evidence against Released Parties in any action or proceeding, except in an action or proceeding that is in furtherance of the Settlement's terms or brought to enforce its terms. Notwithstanding the foregoing, the Settlement may be filed in an action to enforce or interpret the terms of the Settlement and any other documents executed in connection with the performance of the agreements embodied therein. The Released Parties may file the Settlement and/or this Final Judgment and Order 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.

24. Any order entered regarding the motion for attorneys' fees and expenses in this action shall in no way disturb or affect this Final Judgment and Order and shall be considered separate from this Final Judgment and Order.

25. If this Final Judgment and Order is set aside, materially modified, or overturned by this Court or on appeal, and is not fully reinstated on further appeal, this Final Judgment and Order shall be deemed vacated and shall have no force or effect whatsoever.

26. Without affecting the finality of this Final Judgment and Order in any way, this Court hereby retains exclusive continuing jurisdiction over: (a) implementation of the Settlement and any award or distribution of monies under the claims-made Settlement; (b) hearing and determining applications for attorneys' fees, costs, expenses, and service awards to the OTC Plaintiffs; and (c) all parties hereto for the purpose of construing, enforcing, and administering the Settlement.

27. To the extent permitted by law, the Court bars claims against the Released Parties for contribution or indemnification (however denominated) for all or a portion of any amounts paid or awarded in the OTC Action by way of any settlement, judgment or otherwise by any of the following:

- a. Any of the other Defendants currently named in the OTC Action;
- b. Any other Person¹⁷ formerly named as a party in the OTC Action; or

¹⁷ The Settlement Agreement defines "Person" as: "An individual, corporation, limited liability corporation, professional corporation, limited liability partnership, partnership, limited partnership, association, joint stock company, estate, legal representative, trust, unincorporated association, municipality, state, state agency, any entity that is a creature of any state, any government or any political subdivision, authority, office, bureau or agency of any government, and any business or legal entity, and any spouses, heirs, predecessors, successors, representatives, or assignees of the foregoing." Dkt. 1338 ¶ 2(cc).

- c. Any other Person subsequently added or joined as a party in the OTC Action.

28. To the extent permitted by law, the Court bars claims by the Released Parties for contribution or indemnification (however denominated) for all or a portion of any amounts paid or awarded in the OTC Action by way of any settlement, judgment or otherwise against any of the following:

- a. Any of the other Defendants currently named in the OTC Action;
- b. Any other Person formerly named as a party in the OTC Action; or
- c. Any other Person subsequently added or joined as a party in the OTC Action.

29. There is no just reason for delay in the entry of this Final Judgment and Order, and immediate entry by the Clerk of the Court is expressly directed pursuant to Rule 54(b) of the Federal Rules of Civil Procedure.

IT IS SO ORDERED.

DATED: _____, 2017

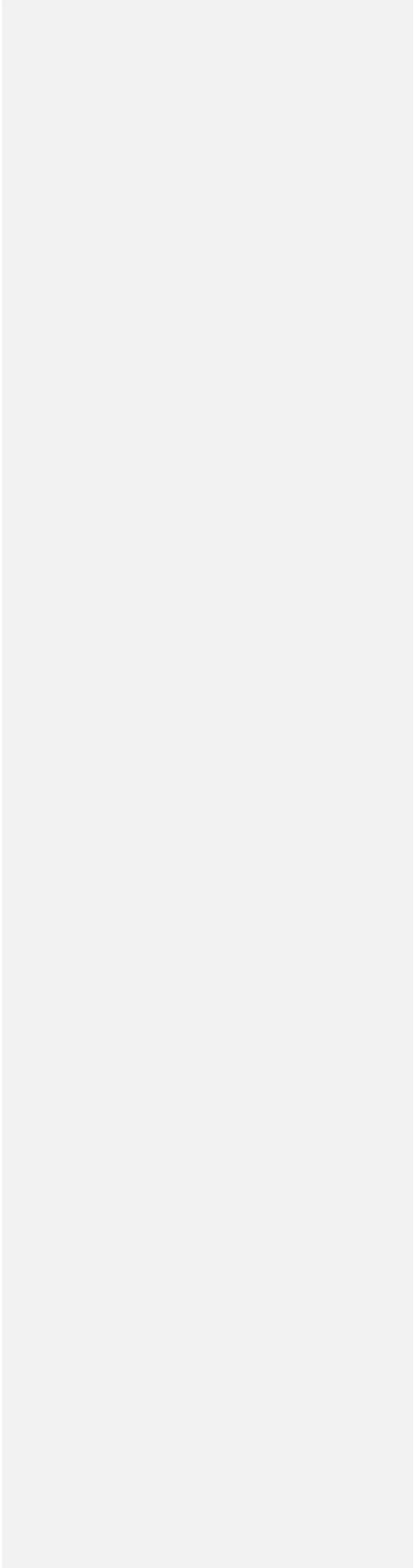
HON. NAOMI REICE BUCHWALD
UNITED STATES DISTRICT JUDGE

EXHIBIT B

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

IN RE LIBOR-BASED FINANCIAL INSTRUMENTS ANTITRUST LITIGATION	MDL No. 2262
THIS DOCUMENT RELATES TO:	Master File No. 1:11-md-2262-NRB ECF Case
The OTC Action	Honorable Naomi R. Buchwald

| **[PROPOSED] FINAL JUDGMENT AND ORDER GRANTING FINAL APPROVAL OF
SETTLEMENT WITH BARCLAYS BANK PLC**



WHEREAS, an action is pending before this Court styled *Mayor and City Council of Baltimore v. Credit Suisse Group AG, et al.*, No. 1:11-md-2262-NRB (the “OTC Action”);

WHEREAS, OTC Plaintiffs¹ have moved, pursuant to Federal Rule of Civil Procedure 23(e), for an order (a) granting final approval to the settlement with Barclays Bank PLC (the “Settlement” or “OTC Settlement”);² (b) certifying the ~~settlement Class~~; Settlement Class ~~(defined in paragraph 6 infra)~~; (c) granting final approval to the Plan of Distribution; ~~(defined in paragraph 5 infra)~~; (d) appointing Hausfeld LLP and Susman Godfrey ~~LLP~~ L.L.P. as Co-Lead Counsel for the Settlement Class; (e) granting final approval to the Class Notice; ~~(defined in paragraph 11 infra)~~; and (f) appointing Mr. Kenneth Feinberg as the Settlement Administrator and Huntington Bank as the Escrow Agent;

WHEREAS, persons or entities who entered into qualifying transactions with non-settling Defendants³ (and their subsidiaries and affiliates) can participate in this Settlement in

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² The settlement agreement memorializing the terms of the Settlement (“Settlement Agreement” or “Agreement”) was entered into on November 11, 2015 and submitted to the Court as Exhibit A to the Declaration of Michael D. Hausfeld in Support of Plaintiffs’ Motion for Preliminary Approval of Settlement with Barclays Bank PLC, Dkt. No. 1338. All references to docket entries in this Final Judgment and Order are references to Case No. 11-md-2262 (S.D.N.Y).

³ Paragraph 2(l) of the Settlement Agreement defines “Defendants” as: “Credit Suisse Group AG; Credit Suisse International; Credit Suisse (USA) Inc.; Bank of America Corporation; Bank of America, N.A.; JPMorgan Chase & Co.; JPMorgan Chase Bank, NA; HSBC Holdings PLC; HSBC Bank PLC; Barclays Bank plc; Lloyds Banking Group PLC; WestLB AG; Westdeutsche Immobilienbank AG; UBS AG; The Royal Bank of Scotland Group PLC; Citizens Bank of Massachusetts a/k/a RBS Citizens Bank N.A.; Deutsche Bank AG; Citibank NA; Citigroup Inc.; Coöperatieve Centrale Raiffeisen

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part because the OTC Action includes antitrust claims under which Barclays Bank PLC can allegedly be held jointly and severally liable for the alleged conduct of all Defendants:

WHEREAS, the Court has considered the Settlement Agreement and other documents submitted in connection with OTC Plaintiffs' Motion for Final Approval of Settlement with Barclays Bank PLC, and good cause appearing therefor;

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

1. This Court has subject matter jurisdiction over this action and personal jurisdiction over OTC Plaintiffs, Barclays Bank PLC, and all members of the OTC Class: (defined in paragraph 6 *infra*).

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

I. FINAL APPROVAL OF SETTLEMENT

3. Upon review of the record, including the Orders orders preliminarily approving the Settlement and the submissions in support of the Settlement and preliminary certification, the Court finds that the Settlement resulted from arm's-length negotiations between highly experienced counsel and falls within the range of possible approval.

4. Pursuant to Rule 23(e) of the Federal Rules of Civil Procedure, the Court hereby grants final approval of the Settlement on the basis that it is fair, reasonable, and adequate as to,

Boerenleenbank B.A.; The Norinchukin Bank; The Bank of Tokyo-Mitsubishi UFJ, Ltd; HBOS PLC; Société Générale S.A.; Royal Bank of Canada; and any other Person or Persons who are named as defendants in the OTC Action at any time up to and including the date a Preliminary Approval Order is issued.” Dkt. 1338 ¶ 2(l).

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and in the best interests of, all OTC Class Members⁴, within the meaning of, and in compliance with all applicable requirements of, Federal Rule of Civil Procedure 23; the Court directs the Settlement's consummation according to its terms. In reaching this conclusion, the Court has 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 as follow:

- a. The Settlement was negotiated by counsel with significant experience litigating antitrust class actions and is the result of vigorous arm's length negotiations undertaken in good faith and with the assistance of a professional mediator experienced in complex cases;
- b. This action is likely to involve contested and serious questions of law and fact, such that the value of an immediate monetary recovery, in conjunction with the value of the prospective relief set forth in the Settlement, outweigh the uncertain possibility of future relief after protracted and expensive litigation; and
- c. Interim Co-Lead Counsel's⁵ judgment that the settlement is fair and reasonable, and the OTC Class Members' reaction to the Settlement, is entitled to great weight.

⁴ Paragraph 2(z) of the Settlement Agreement defines "OTC Class Member" as: "A Person who is a member of the OTC Class and has not timely and validly excluded himself, herself, or itself in accordance with the procedures established by the Court."

⁵ Susman Godfrey L.L.P. and Hausfeld LLP are Interim Co-Lead Counsel for the OTC Class.

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II. FINAL APPROVAL OF THE PLAN OF DISTRIBUTION

5. Upon review of the record, the Court finds that the pro rata Plan of Distribution⁶ has a reasonable, rational basis and is fair and adequate. Therefore, the Plan of Distribution is hereby finally approved.

III. CERTIFICATION OF THE SETTLEMENT CLASS

6. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, the Court certifies, solely for purposes of effectuating the settlement set forth in the Settlement Agreement, the following settlement class (the “Class;” or “OTC Class” or “Settlement Class”):

All persons or entities (other than Defendants and their employees, affiliates, parents, and subsidiaries) that purchased in the United States, directly from a Defendant (or a Defendant’s subsidiaries or affiliates), a U.S. Dollar LIBOR-Based Instrument and that owned the U.S. Dollar LIBOR-Based Instrument any time during the period August 2007 through May 2010 (the “Class Period”).⁷

⁶ The Plan of Distribution is found at Docket Entry 2239-1.

⁷ Specifically excluded from the Class are Defendants; Released Parties; co-conspirators; the officers, directors, or employees of any Defendant, Released Party, or co-conspirator; any entity in which any Defendant, Released Party, or co-conspirator has a controlling interest; any affiliate, legal representative, heir, or assign of any Defendant, Released Party, or co-conspirator and any person acting on their behalf. Also excluded from the Class are any judicial officers presiding over this action and the members of his/her immediate families and judicial staff, and any juror assigned to the OTC Action. Dkt. 1338 ¶ 3(b).

Paragraph 2(qq) of the Settlement Agreement defines “U.S. Dollar LIBOR-Based Instrument” as: “An instrument that includes any term, provision, obligation or right to be paid or to receive interest based upon the U.S. Dollar LIBOR rate, including but not limited to asset swaps, collateralized debt obligations, credit default swaps, forward rate agreements, inflation swaps, interest rate swaps, total return swaps, options or floating rate notes. For the avoidance of doubt, U.S. Dollar LIBOR-Based Instrument does not include an instrument that includes only a term, provision, obligation or right to pay interest based upon the U.S. Dollar LIBOR rate, such as business, home, student or car loans, or credit cards.” Dkt. 1338 ¶ 2(qq).

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7. The Court's certification of the Class as provided herein is without prejudice to, or waiver of the rights of, any defendant to contest certification of any other class proposed in these actions (i.e., the actions included in the above-captioned multi-district litigation). The Court's findings in this Final Judgment and Order shall have no effect on the Court's ruling on any motion to certify any class in these actions, and no party may cite or refer to the Court's approval of the Class as persuasive or binding authority with respect to any motion to certify any such class. The findings that follow in paragraphs 8–9 are limited to this particular order and are made only in the context of this particular settlement.

~~7.8.~~ The Court finds that the requirements of Rule 23 are satisfied solely for the purpose of effectuating the Settlement as follows:

- a. Pursuant to Rule 23(a)(1), the Court determines that the members of the Class are so numerous that their joinder before the Court would be impracticable;
- b. Pursuant to Rule 23(a)(2), the Court determines that OTC Plaintiffs have alleged one or more questions of fact or law common to the Class;
- c. Pursuant to Rule 23(a)(3), the Court determines that OTC Plaintiffs' claims are typical of the claims of the Class;
- d. Pursuant to Rule 23(a)(4), the Court determines that OTC Plaintiffs will fairly and adequately protect the interests of the Class;
- e. Pursuant to Rule 23(b)(3), the Court determines that common questions of law and fact predominate over questions affecting only individual members; and

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- f. Pursuant to Rule 23(b)(3), the Court determines that a class resolution is superior to other available methods for the fair and efficient adjudication of this action.

~~8-9.~~ If the Effective Date⁸ does not occur with respect to the Settlement because of the failure of a condition that affects the Settlement, this certification of the Class shall be deemed null and void as to the parties subject to the Settlement without the need for further action by the Court or Barclays. In such circumstances, Barclays shall retain its 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 grounds.

~~9. The Court's certification of the Class as provided herein is without prejudice to, or waiver of the rights of, any defendant to contest certification of any other class proposed in these consolidated actions (i.e., the above captioned multi district litigation). The Court's findings in this Order shall have no effect on the Court's ruling on any motion to certify any~~

⁸ Pursuant to paragraph 6(a) of the Settlement Agreement: "The Effective Date of Settlement shall be the date when all of the following events shall have occurred and shall be conditioned on the occurrence of all of the following events: (i) The contribution to the Settlement Fund has been made pursuant to this Agreement; (ii) Entry of the Preliminary Approval Order; (iii) Final approval by the Court of the settlement set forth in this Agreement, following Class Notice and the Fairness Hearing; (iv) No Party has exercised his, her, or its rights to terminate this Agreement pursuant to Paragraphs 10(c), 13(a), 13(c), or 13(d); and (v) Entry by the Court of a Final Judgment and Order of Dismissal, and the Final Judgment and Order of Dismissal becomes final, or, in the event that the Court enters an Alternative Judgment and neither Class Plaintiffs nor Barclays elects to terminate this Agreement, and such Alternative Judgment becomes final." Dkt. 1338 ¶ 6(a).

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~~class in these actions, and no party may cite or refer to the Court's approval of the Class as persuasive or binding authority with respect to any motion to certify any such class.~~

IV. CLASS COUNSEL

10. Pursuant to Rule 23(g) of the Federal Rules of Civil Procedure, and solely for settlement purposes, the following firms are designated as settlement class counsel ("Class Counsel") for the Class:

HAUSFELD LLP
1700 K Street, NW, Suite 650
Washington, DC 20006
Tel: 202-540-7200

SUSMAN GODFREY L.L.P.
1301 Avenue of the Americas, 32nd Floor
New York, NY 10019
Tel: 212-336-8334

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V. FINAL APPROVAL OF CLASS NOTICE

11. Upon review of the record, the Court finds that the Class Notice⁹ constituted due, adequate, and sufficient notice of the settlement and was the best practicable under the circumstances and satisfied the requirements of Federal Rules of Civil Procedure 23(c)(2)(B) and 23(e)(1), due process, and any other applicable law. Therefore, the Class Notice is finally approved.

⁹ Class Notice is defined in the Settlement Agreement as: "The Notice and Summary Notice, collectively." Dkt. 1338 ¶ 2(i). The Settlement Agreement defines the "Notice" as "The Notice of Proposed Settlement of Class Action to be provided to the Class as provided in this Agreement and the Preliminary Approval Order" and the "Summary Notice" as "The summary notice of proposed settlement and hearing for publication." Dkt. 1338 ¶¶ 2(w), (nn). The Class Notice is described in detail in OTC Plaintiffs' Motion for Final Approval of Settlement with Barclays Bank PLC, Dkt. 2276, at 2-4, 15-17; the Declaration of Shannon R. Wheatman, Dkt. 2275-1; and the Declaration of Jason Rabe, Dkt. 2275-2.

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VI. APPOINTMENT OF SETTLEMENT ADMINISTRATOR AND ESCROW AGENT

12. Upon review of the record, the Court finds that Mr. Kenneth Feinberg and Huntington National Bank are qualified to serve as Settlement Administrator¹⁰ and Escrow Agent,¹¹ respectively. Therefore, Mr. Kenneth Feinberg is appointed as Settlement Administrator and Huntington National Bank is appointed as Escrow Agent.

VII. OTHER PROVISIONS

13. The Court approves and directs the implementation of all the terms of the Settlement.

14. If this Final Judgment and Order is set aside, materially modified, or overturned by this Court or on appeal, and is not fully reinstated on further appeal, this Final Judgment and Order certifying the Class shall be vacated *nunc pro tunc*.

15. Except as to any individual claim of those Persons who have validly and timely requested exclusion from the Class (“Opt-Outs”), all Released Parties¹² and Releasing Parties¹³ are bound by this Final Judgment and Order and by the Settlement Agreement.

¹⁰ Pursuant to paragraph 7(c) of the Settlement Agreement: “The Settlement Administrator shall assist in the development of the Plan of Distribution and the resolution of any disputes between OTC Class Members and the Claims Administrator pursuant to the Plan of Distribution.” Dkt. 1338 ¶ 7(c).

¹¹ Pursuant to paragraph 10(a) of the Settlement Agreement: “The Settlement Fund shall be established as an escrow account and administered by the Escrow Agent, subject to approval by the Court.” Dkt. 1338 ¶ 10(a).

¹² Pursuant to paragraph 2(gg) of the Settlement Agreement “Released Parties” are defined as: “Barclays and each of its 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), predecessors, successors, and each of their respective officers, directors, employees, agents, attorneys, legal or other representatives, trustees, heirs, executors, administrators, advisors, and assigns.

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16. Except as to the Opt-Outs, the Court dismisses the OTC Action, as well as all of the Released Claims,¹⁴ against any of the Released Parties by the Releasing Parties, with prejudice. The Parties are to bear their own costs, except as otherwise provided in the Settlement, provided that such dismissal shall not affect, in any way, the right of the Releasing Parties to pursue claims, if any, outside the scope of the Released Claims.

Released Parties does not include: (i) any of the other Defendants; or (ii) any other Person formerly named as a party in the OTC Action.” Dkt. 1338 ¶ 2(gg).

¹³ Pursuant to paragraph 2(hh) of the Settlement Agreement “Releasing Parties” are defined as: “Individually and collectively, Class Plaintiffs and each OTC Class Member, on behalf of themselves and any of their respective past or present officers, directors, stockholders, agents, employees, legal representatives, partners, associates, trustees, parents, subsidiaries, divisions, affiliates, heirs, executors, administrators, purchasers, predecessors, successors, and assigns, whether or not they object to the settlement set forth in this Agreement and whether or not they make a claim for payment from the Net Settlement Fund.” Dkt. 1338 ¶ 2(hh).

¹⁴ Pursuant to paragraph 2(ff) of the Settlement Agreement “Released Claims” are defined as: “Any and all manner of 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, and damages, whenever incurred, and liabilities of any nature whatsoever (including joint and several), known or unknown, suspected or unsuspected, asserted or unasserted, arising from or relating in any way to any conduct alleged or that could have been alleged in and arising from the factual predicate of the OTC Action; provided, however, that Released Claims do not include (1) claims that are the subject of the Settlement Agreement, dated October 7, 2014, between Barclays and the Exchange-Based Plaintiffs, specifically claims arising from or relating in any way to any conduct alleged in the Exchange-Based Plaintiffs’ Action or that could have been alleged in the Exchange-Based Plaintiffs’ Action concerning Eurodollar future contracts or options; (2) claims arising under foreign law related to transactions outside the United States; or (3) claims to enforce any of the terms of this Agreement. For the avoidance of doubt, Released Claims does not include claims relating to or arising out of the purchase of non-U.S. Dollar LIBOR-Based Instruments or any other claims that do not arise out of the factual predicate of the OTC Action, such as a claim to complete the settlement or otherwise enforce the terms of a U.S. Dollar LIBOR-Based Instrument.” Dkt. 1338 ¶ 2(ff). This term is subject to the limitations in paragraphs 19-20 *infra*.

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17. Any Opt-Outs have timely and validly requested exclusion from the Class and are hereby excluded from the Class, not bound by this Final Judgment and Order, and may not make any claim or receive any benefit from the Settlement, whether monetary or otherwise.

18. Upon the Effective Date, the Releasing Parties: (a) shall be deemed to have hereby fully and irrevocably waived, released, relinquished, and discharged all Released Claims against the Released Parties, regardless of whether such Releasing Party executes and delivers a proof of claim; (b) shall be forever enjoined from prosecuting in any forum any Released Claim against any of the Released Parties; and (c) agree and covenant not to sue any of the Released Parties on the basis of any Released Claims or to assist any third party in commencing or maintaining any suit against any Released Party related in any way to any Released Claims.

19. Notwithstanding the foregoing, persons or entities that only purchased bonds issued by entities other than a Defendant (or a Defendant’s subsidiary or affiliate) are not members of the OTC Class. Further, claims that are alleged in the Bondholder Plaintiff Action (Case No. 12 CV 1025 (NRB)) concerning U.S. Dollar LIBOR-Based Debt Securities¹⁵ are not released by the OTC Settlement. Thus, any claim based on a U.S. Dollar LIBOR-Based Debt Security may be asserted only against the Barclays’ settlement of the Bondholder Plaintiff Action (“Bondholder Settlement”) (and not the OTC Settlement), and will only be released

¹⁵ “U.S. Dollar LIBOR-Based Debt Securities” means any U.S. Dollar-denominated debt security (a) that was assigned a unique identification number by the CUSIP system; (b) on which interest was payable at any time during August 1, 2007 through May 31, 2010; and (c) where that interest was payable at a rate based on U.S. Dollar LIBOR. U.S. LIBOR-Based Debt Securities include, but are not limited to, any such bonds, corporate bonds, municipal bonds, government bonds, asset backed securities, residential mortgage backed securities, commercial mortgage backed securities, collateralized debt obligations and collateralized loan obligations. Excluded from the definition of U.S. Dollar LIBOR-Based Debt Securities are any such securities that were issued by any Defendant or its subsidiaries or affiliates as obligor. “CUSIP” stands for Committee on Uniform Securities Identification Procedures.

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pursuant to the Bondholder Settlement. Likewise, any claim based on a debt security tied to U.S. Dollar LIBOR that was issued by a Defendant (or a Defendant's subsidiary or affiliate) as obligor and was purchased directly from a Defendant (or a Defendant's subsidiary or affiliate) may be asserted only against the OTC Settlement (and not the Bondholder Settlement), and will only be released pursuant to the OTC Settlement. Any OTC Class Member who is also a member of the class alleged in the Bondholder Plaintiff Action will be entitled to assert claims to share in the settlement funds established in both actions in accordance with the limitations set forth in this paragraph. Similarly, any member of the class in the Bondholder Plaintiff Action who is also a member of the OTC Class will be entitled to assert claims to share in both settlement funds in accordance with the limitations set forth in this paragraph.

~~19-20.~~ In addition, claims concerning U.S. Dollar LIBOR-Based Instruments purchased from one or more Non-Defendant OTC Financial Institutions¹⁶ which are alleged in *33-35 Green Pond Road Assocs. LLC v. Bank of America Corp., et al.* (Case No. 12 CV 5822 (NRB)) and *Courtyard at Amwell II, LLC, et al. v. Bank of America Corp., et al.* (Case No. 12 CV 6693 (NRB)) class actions (collectively the "Non-Defendant OTC Action") are not released by the OTC Settlement. Accordingly, any OTC Class Member who is also a member of the class alleged in the Non-Defendant OTC Action will be entitled to assert claims to share in any settlement funds established in both actions. ~~Similarly, any~~ member of the OTC Class may also

¹⁶ The "Non-Defendant OTC Financial Institutions" are Wells Fargo & Company; Goldman Sachs Group, Inc.; Morgan Stanley; Metlife, Inc.; U.S. Bancorp; The PNC Financial Services Group, Inc.; The Bank of New York Mellon Corporation; Capital One Financial Corporation; Ally Financial Inc.; Suntrust Banks, Inc.; BB&T Corporation; TD Bank US Holding Company; State Street Corporation; American Express Company; Regions Financial Corporation; Fifth Third Bancorp; Keycorp Cleveland; Northern Trust Corporation; Bancwest Corporation; M&T Bank Corporation; Harris Financial Corp.; BBVA USA Bancshares, Inc., as well as any of their subsidiaries or affiliates.

~~be a member of a potential~~ class in the Non-Defendant OTC Action ~~who~~. ~~If that~~ is ~~also a~~ ~~member of the OTC Class will be entitled to assert~~ the case, that entity can make claims ~~to share~~ ~~in from~~ any settlement funds established in both actions. Thus, a person or entity who purchased U.S. Dollar LIBOR-Based Instruments from Non-Defendant OTC Financial Institutions and also purchased U.S. Dollar LIBOR-Based Instruments directly from a Defendant (or subsidiary or affiliate of a Defendant) will be legally entitled to assert a claim to share in any settlement by Barclays of the Non-Defendant OTC Action based on purchases of U.S. Dollar LIBOR-Based Instruments from Non-Defendant OTC Financial Institutions, and will also be legally entitled to assert a claim to share in the OTC Settlement based on U.S. Dollar LIBOR-Based Instruments purchased directly from a Defendant (or subsidiary or affiliate of a Defendant), but will not be legally entitled to assert a claim to share in the OTC Settlement based on purchases of U.S. Dollar LIBOR-Based Instruments from Non-Defendant OTC Financial Institutions.

~~20-21.~~ This Final Judgment and Order shall not affect, in any way, the right of the OTC Plaintiffs or OTC Class Members to pursue claims, if any, outside the scope of the Released Claims.

~~21-22.~~ The Settlement, acts performed in furtherance of the Settlement and/or documents executed in furtherance of the Settlement may not be deemed or used as evidence of an admission or other statement supporting: (a) the validity of any claim made by OTC Plaintiffs, OTC Class Members, or Class Counsel (including the appropriateness of class certification); (b) any wrongdoing or liability of the Released Parties; or (c) any fault or omission of the Released Parties in any court, administrative agency, or other proceeding.

~~22-23.~~ The Settlement shall not be offered or be admissible in evidence against Released Parties in any action or proceeding, except in an action or proceeding that is in furtherance of the

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Settlement's terms or brought to enforce its terms. Notwithstanding the foregoing, the Settlement may be filed in an action to enforce or interpret the terms of the Settlement and any other documents executed in connection with the performance of the agreements embodied therein. The Released Parties may file the Settlement and/or this Final Judgment and Order 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.

23-24. Any order entered regarding the motion for attorneys' fees and expenses in this action shall in no way disturb or affect this Final Judgment and Order and shall be considered separate from this Final Judgment and Order.

24-25. If this Final Judgment and Order is set aside, materially modified, or overturned by this Court or on appeal, and is not fully reinstated on further appeal, this Final Judgment and Order shall be deemed vacated and shall have no force or effect whatsoever.

25-26. Without affecting the finality of this Final Judgment and Order in any way, this Court hereby retains exclusive continuing jurisdiction over: (a) implementation of ~~this~~the Settlement and any award or distribution of monies under the claims-made Settlement; (b) hearing and determining applications for attorneys' fees, costs, expenses, and service awards to the OTC Plaintiffs; and (c) all parties hereto for the purpose of construing, enforcing, and administering the Settlement.

26-27. To the extent permitted by law, the Court bars claims against the Released Parties for contribution or indemnification (however denominated) for all or a portion of any amounts

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paid or awarded in the OTC Action by way of any settlement, judgment or otherwise by any of the following:

- a. Any of the other Defendants currently named in the OTC Action;
- b. Any other Person¹⁷ formerly named as a party in the OTC Action; or
- c. Any other Person subsequently added or joined as a party in the OTC Action.

~~27-28.~~ To the extent permitted by law, the Court bars claims by the Released Parties for contribution or indemnification (however denominated) for all or a portion of any amounts paid or awarded in the OTC Action by way of any settlement, judgment or otherwise against any of the following:

- a. Any of the other Defendants currently named in the OTC Action;
- b. Any other Person formerly named as a party in the OTC Action; or
- c. Any other Person subsequently added or joined as a party in the OTC Action.

~~28-29.~~ There is no just reason for delay in the entry of this Final Judgment and Order, and immediate entry by the Clerk of the Court is expressly directed pursuant to Rule 54(b) of the Federal Rules of Civil Procedure.

¹⁷ The Settlement Agreement defines "Person" as: "An individual, corporation, limited liability corporation, professional corporation, limited liability partnership, partnership, limited partnership, association, joint stock company, estate, legal representative, trust, unincorporated association, municipality, state, state agency, any entity that is a creature of any state, any government or any political subdivision, authority, office, bureau or agency of any government, and any business or legal entity, and any spouses, heirs, predecessors, successors, representatives, or assignees of the foregoing." Dkt. 1338 ¶ 2(cc).

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IT IS SO ORDERED.

| DATED: _____, 2017

HON. NAOMI REICE BUCHWALD
UNITED STATES DISTRICT ~~COURT~~ JUDGE

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