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September 26, 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 write pursuant to the Court's Individual Rule of Practice 2(E)(1) to outline the substantive arguments made in OTC Plaintiffs' Motion for Attorneys' Fees, Reimbursement of Litigation Expenses, and Service Awards for Named Plaintiffs. Dkt. 2278.

***Attorneys' Fees***

After more than six years of hard-fought litigation for the OTC Class on a fully contingent basis, Class Counsel have recovered \$120 million in monetary relief and additional valuable non-monetary relief in the form of discovery cooperation for the benefit of the OTC Class as a result of the Barclays Settlement. Class Counsel respectfully request an attorneys' fees award of 30% of the net settlement fund (after deducting expenses).

That requested fee is well within the range regularly approved by courts in this Circuit and around the country. *In re Initial Public Offering Secs. Litig.*, 671 F. Supp. 2d 467, 516 (S.D.N.Y. 2009) (awarding plaintiffs' counsel one-third of the net settlement fund of \$170,084,950.00); *In re Deutsche Telekom AG Secs. Litig.*, 2005 WL 7984326, at \*4 (S.D.N.Y. June 14, 2005) (Buchwald, J.) (awarding attorneys' fees of 28% of a \$120 million settlement); *see also In re TFT-LCD*

September 26, 2017

Page 2

*(Flat Panel) Antitrust Litig.*, No. M 07–1827 SI, 2013 WL 1365900, at \*8 (N.D. Cal. Apr. 3, 2013) (awarding attorneys’ fees of 28.6% of a \$1.08 billion settlement). A 30% fee here produces a modest lodestar multiplier of 1.22, which is below the range of multipliers regularly approved by courts in this Circuit, and meets the relevant *Goldberger* factors used to measure reasonableness. *In re Lloyd’s Am. Trust Fund Litig.*, No. 96 Civ. 1262 RWS, 2002 WL 31663577, at \*27 (S.D.N.Y. Nov. 26, 2002) (“Here, the resulting multiplier of 2.09 is at the lower end of the range of multipliers awarded by courts within the Second Circuit.”).

### ***Reimbursement of Litigation Expenses***

Class Counsel also seek reimbursement for \$13,961,666.57 in litigation expenses, composed largely of expert fees that produced a suppression and damages model used for both class certification and the plan of allocation for the Barclays Settlement. That suppression and damages model is the *only* such model that is not subject to a *Daubert* motion by the defendants. Courts regularly approve reimbursement of such litigation expenses in class actions as a matter of course. *See, e.g., In re Credit Default Swaps Antitrust Litig.*, 2016 WL 2731524, at \*18 (S.D.N.Y. Apr. 26, 2017) (approving \$10 million in expenses “[m]ost of” which “were incurred in connection with retention of experts” where the case settled just prior to the due date for class certification motions).

### ***Service Awards for Named Plaintiffs***

Finally, OTC Plaintiffs respectfully request that the Court grant service awards of \$25,000 to each of the named plaintiffs (the Mayor and City Council of Baltimore, the City of New Britain, Yale University, Vistra Energy Corp., and Jennie Stuart Medical Center Inc.) to compensate them for their exemplary dedication of time, resources, and personnel on behalf of the OTC Class in producing documents, working with counsel to understand those documents, and preparing and sitting for lengthy depositions. Courts have approved similar and higher incentive awards in numerous cases. *See, e.g., Anwar v. Fairfield Greenwich Ltd.*, No. 09-cv-118, 2012 WL 1981505, at \*3 (S.D.N.Y. June 1, 2012) (“Courts consistently approve awards in class action lawsuits to compensate named plaintiffs for the services they provide and burdens they endure during litigation.”).

Respectfully Submitted,

/s/ William Christopher Carmody  
William Christopher Carmody