

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK**

RICHARD DENNIS, SONTERRA CAPITAL MASTER FUND, LTD., FRONTPOINT FINANCIAL SERVICES FUND, L.P., FRONTPOINT ASIAN EVENT DRIVEN FUND, L.P., FRONTPOINT FINANCIAL HORIZONS FUND, L.P., and ORANGE COUNTY EMPLOYEES RETIREMENT SYSTEM, on behalf of themselves and all others similarly situated,

Docket No. 16-cv-06496 (LAK)

Plaintiffs,

-against-

JPMORGAN CHASE & CO., JPMORGAN CHASE BANK, N.A., BNP PARIBAS, S.A., THE ROYAL BANK OF SCOTLAND GROUP PLC, THE ROYAL BANK OF SCOTLAND PLC, RBS N.V., RBS GROUP (AUSTRALIA) PTY LIMITED, UBS AG, AUSTRALIA AND NEW ZEALAND BANKING GROUP LTD., COMMONWEALTH BANK OF AUSTRALIA, NATIONAL AUSTRALIA BANK LIMITED, WESTPAC BANKING CORPORATION, DEUTSCHE BANK AG, HSBC HOLDINGS PLC, HSBC BANK AUSTRALIA LIMITED, LLOYDS BANKING GROUP PLC, LLOYDS BANK PLC, MACQUARIE GROUP LTD., MACQUARIE BANK LTD., ROYAL BANK OF CANADA, RBC CAPITAL MARKETS LLC, MORGAN STANLEY, MORGAN STANLEY AUSTRALIA LIMITED, CREDIT SUISSE GROUP AG, CREDIT SUISSE AG, ICAP PLC, ICAP AUSTRALIA PTY LTD., TULLETT PREBON PLC, TULLETT PREBON (AUSTRALIA) PTY LTD., AND JOHN DOES NOS. 1-50.

Defendants.

**JOINT DECLARATION OF VINCENT BRIGANTI AND CHRISTOPHER LOVELL IN  
SUPPORT OF (A) PLAINTIFFS' MOTION FOR FINAL APPROVAL OF CLASS  
ACTION SETTLEMENTS; AND (B) CLASS COUNSEL'S MOTION FOR AN AWARD  
OF ATTORNEYS' FEES AND REIMBURSEMENT OF EXPENSES**

Vincent Briganti and Christopher Lovell, pursuant to 28 U.S.C. § 1746, hereby declare as follows:

1. We, Vincent Briganti and Christopher Lovell, are members of the Bar of this Court and, respectively, are the Chairman and a shareholder of the law firm Lowey Dannenberg, P.C. (“Lowey Dannenberg”) and a partner with the law firm Lovell Stewart Halebian Jacobson LLP (“Lovell Stewart” and, with Lowey Dannenberg, “Class Counsel” or “Plaintiffs’ Counsel”). Class Counsel represent Plaintiffs Richard Dennis (“Dennis”) and Orange County Employees Retirement System (“OCERS”). Our firms are the court-appointed Class Counsel for the Settlement Class in the above-captioned action (“Action”). Each of us has personal knowledge of the matters set forth herein involving our respective firms, based on our active supervision of and participation in the prosecution and settlement of the claims asserted in this Action. The statements herein are true and accurate to the best of our personal knowledge, information and belief based on the documents and information referenced herein, and information from attorneys at Lowey Dannenberg and Lovell Stewart. If called upon and sworn as a witness, we could competently testify thereto.

2. We submit this Joint Declaration in support of (A) Plaintiffs’ Motion for Final Approval of Class Action Settlements with Defendants JPMorgan Chase & Co. and JPMorgan Chase Bank (together, “JPMorgan”), Westpac Banking Corporation (“Westpac”), Australia and New Zealand Banking Group Limited (“ANZ”), Commonwealth Bank of Australia (“CBA”), National Australia Bank Limited (“NAB”), Morgan Stanley and Morgan Stanley Australia Limited (together, “Morgan Stanley”), Credit Suisse AG and Credit Suisse Group AG (“Credit Suisse”), BNP Paribas, S.A. (“BNPP”), Deutsche Bank AG (“Deutsche Bank”), Royal Bank of Canada (“RBC”), The Royal Bank of Scotland Plc (n/k/a NatWest Markets plc) (“RBS”), and UBS AG

(“UBS,” and together with BNPP, Deutsche Bank, RBC, and RBS, the “Group Settling Defendants”) and (B) Class Counsel’s Motion for an Award of Attorneys’ Fees and Reimbursement of Expenses (the “Fee and Expense Application”).

3. JPMorgan, ANZ, CBA, NAB, Morgan Stanley, Westpac, Credit Suisse, BNPP, Deutsche Bank, RBC, RBS, and UBS are collectively referred to herein as the “Settling Defendants.” Unless otherwise defined, capitalized terms herein have the same meaning as in the Settlement Agreements.<sup>1</sup>

## **I. INTRODUCTION**

4. The Settlements provide cash payments totaling \$185,875,000 for the benefit of the Settlement Class, as well as non-monetary cooperation that has been used to prosecute this Action or that may be used against any dismissed Defendant, should the Action continue. If the Settlements are approved, the Action will be resolved as against the Settling Defendants. In addition to providing immediate relief to the Settlement Class, the Settlement avoids the substantial risk, expense, and delay of continuing to prosecute and ultimately taking this Action to trial, including the risk that the Settlement Class would recover less at trial, or nothing at all, after additional years of litigation.

5. The Settlements are the product of arm’s length negotiations among experienced counsel. Plaintiffs and Class Counsel had a reasonable understanding of the strengths and weaknesses of the claims asserted in the Action at the time they reached the Settlements.

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<sup>1</sup> Settlement Agreements refers to the following Stipulations and Agreements of Settlement: (1) the JPMorgan Settlement Agreement dated November 20, 2018, (2) the Westpac Settlement Agreement dated March 1, 2021, (3) the ANZ Settlement Agreement dated December 10, 2021, (4) the CBA Settlement Agreement dated December 10, 2021, (5) the NAB Settlement Agreement dated December 10, 2021, (6) the Morgan Stanley Settlement Agreement dated October 1, 2021, (7) the Credit Suisse Settlement Agreement dated January 21, 2022, and (8) the Group Settling Defendants Settlement Agreement dated April 29, 2022.

6. Based on the work and investigation performed in this Action, we believe that the Settlements constitute an excellent result for the Settlement Class in light of the substantial litigation risks, and that all eight Settlements should be approved.

7. We also respectfully submit that the previously filed Plan of Distribution should be approved. *See* ECF No. 552 at Ex. 2. The Plan of Distribution was developed by Class Counsel in consultation with Plaintiffs' experts and the Settlement Administrator. It was designed to fairly and reasonably allocate the Net Settlement Fund among Authorized Claimants based on the volume proxy of their total exposure to Defendants' alleged manipulations of BBSW-Based Derivatives, while at the same time serving as a cost-efficient and equitable way to distribute the Net Settlement Fund. The Plan of Distribution's approach to allocation is consistent with many other distribution plans that have been approved by courts in this District and elsewhere. Upon further consultation with the Settlement Administrator, A.B. Data, Ltd. ("A.B. Data"), the Proof of Claim and Release form ("Claim Form") has been updated to allow A.B. Data to collect the additional information necessary for calculating claims as described in the Plan of Distribution. *See* Ex. A, attached hereto.

8. As to the Fee and Expense Application, the Class Notice informed the Settlement Class that Class Counsel would apply for an award of attorneys' fees of up to \$61,958,333.33, which is one-third of the Settlement Fund, plus payment of litigation costs and expenses not to exceed \$1,250,000, plus interest on such attorneys' fees and litigation costs and expenses. The Class Notice also advised that the Class Plaintiffs may seek Incentive Awards totaling, in the aggregate up to \$75,000.

9. Consistent with the Notice, Class Counsel respectfully move for an attorneys' fee award of approximately 25.4% of the total Settlement Fund (or \$47,218,750), plus payment of

\$845,471.57 for litigation costs and expenses incurred from the inception of the Action through present, and interest on such attorneys' fees and litigation costs and expenses.

10. Class Counsel believe the requested attorneys' fee award is reasonable based on Class Counsel's efforts, the risk they undertook, and the results they achieved. Further, the request is consistent with the retainer entered into with OCERS in 2018. The requested payment for litigation costs and expenses should also be approved because the expenses were reasonably and necessarily incurred during the prosecution of the Action.

11. This Declaration is organized as follows. Section II describes Class Counsel's work from inception, including the work that directly led to the Settlements totaling \$185,875,000. Section III sets forth Class Counsel's total fee-compensable hours invested in prosecuting the Action along with the related lodestar, and the litigation costs and expenses incurred since inception in furtherance of the Action

## **II. CLASS COUNSEL'S WORK ON BEHALF OF THE PLAINTIFFS AND THE SETTLEMENT CLASS**

### **A. Initial Case Investigation, Initial Pleadings, and First Motion to Dismiss**

12. In 2016, the Australian Securities and Investments Commission ("ASIC") initiated proceedings against three BBSW panel banks ANZ, Westpac, and NAB, for "unconscionable conduct and market manipulation" in connection with the bank's setting of BBSW between 2010 and 2012. The initiation of these proceedings followed ASIC's settlements with UBS, RBS and BNPP, respectively, for potential misconduct involving BBSW, which included "voluntary contributions" to financial literacy programs.<sup>2</sup>

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<sup>2</sup> See <https://www.abc.net.au/news/2016-06-08/asic-a-flurry-of-punches-but-no-knockout-blow/7493258>. In 2017, ASIC expanded its prosecution to include CBA.

13. The initiation documents included communications that Class Counsel believed from their experience in litigating benchmark interest rate cases as potentially evidencing a conspiracy among BBSW panel banks and others to fix BBSW and the prices of BBSW-Based Derivatives.

14. After information about the proceedings became public, Class Counsel assembled a team of attorneys and support staff to investigate and develop facts regarding the nature and scope of the alleged manipulation and prepare the initial complaint. They researched BBSW and BBSW-Based Derivatives, the turnover of BBSW-Based Derivatives in the United States, and the structure and function of the BBSW panel. They conferred with clients and began to analyze client transaction records. Class Counsel obtained and reviewed unclassified filings from the Federal Court of Australia concerning ASIC's regulatory proceedings against ANZ, NAB, Westpac and analyzed regulatory settlements and findings pertaining to Defendants involving BBSW or other benchmark interest rates.

15. After completing their initial investigation, on August 16, 2016, Class Counsel filed this Action against 17 Defendants for Plaintiffs Dennis, Sonterra Capital Master Fund ("Sonterra"), FrontPoint Financial Services Fund L.P., FrontPoint Asian Event Driven Fund, L.P., and FrontPoint Financial Horizons Fund, L.P. (collectively, "FrontPoint") individually and on behalf of a proposed class of U.S. investors who purchased or sold BBSW-Based Derivatives from at least January 1, 2003 to at least December 31, 2012. ECF No. 1 (Class Action Complaint). The complaint alleged that Defendants used multiple means to manipulate BBSW and the prices of BBSW-Based Derivatives, including by: (a) engaging in manipulative money market transactions during the BBSW Fixing Window; (b) making false BBSW rate submissions that did not reflect actual transaction prices; (c) uneconomically buying or selling money market instruments at a loss

to cause artificial derivatives prices; and (d) sharing proprietary information to align interests and avoid conduct that could harm conspiracy members.

16. At the time of this initial filing, there were substantial risks in taking on this Action. For example, a court could find that there was no conspiracy, no antitrust injury, no private antitrust claim for manipulation of a benchmark interest rate, and/or no cognizable claim under the Commodity Exchange Act (“CEA”). There were also substantial risks that U.S. courts lacked personal jurisdiction over foreign Defendants for their manipulation of BBSW. We have reason to believe that the absence of follow-on filings was due to these high risks.

17. Class Counsel continued to investigate and develop facts about the alleged misconduct involving BBSW. They engaged Australian counsel, consulted with experts, and conducted interviews of industry insiders. On December 19, 2016, pursuant to a stipulation dated November 11, 2016 (ECF No. 9), these Plaintiffs filed their Amended Complaint (“AC”). ECF No. 63. The AC asserted claims under Section 1 of the Sherman Act, Sections 6(c), 9, and 22 of the CEA, the Racketeer Influenced and Corrupt Organizations Act (“RICO”), and New York common law against the Defendants. AC ¶¶ 316-72.

18. On February 24, 2017, Defendants separately moved to dismiss for lack of personal jurisdiction under Rule 12(b)(2) (ECF No. 109-31, 133, 137), and for lack of subject matter jurisdiction and failure to state a claim under Rules 12(b)(1) and (6). ECF No. 132, 134-36.

19. On April 28, 2017, Dennis, Sonterra, and FrontPoint filed their opposition to both of Defendants’ motions to dismiss (ECF No. 153-56), and on May 25, 2018, Defendants filed their replies. ECF No. 163-66.

20. On October 31, 2017, with leave of the Court, Defendants filed a supplemental memorandum of law in support of their motion to dismiss the AC alleging that FrontPoint and

Sonterra lacked capacity to sue. ECF No. 184-87. On November 14, 2017, Dennis, Sonterra and FrontPoint filed their opposition to Defendants' supplemental memorandum. On November 21, 2017, Defendants filed their supplemental reply under seal.

21. The Court held oral argument on January 23, 2018 and directed Defendants to seek leave via letter to raise any capacity issues as a separate motion. ECF No. 203. On February 2, 2018, Defendants submitted their letter seeking leave to file the separate motion, which Dennis, Sonterra and FrontPoint opposed. ECF Nos. 207-08. On February 5, 2018, the Court granted Defendants' request for leave to file a separate motion to dismiss the AC for lack of capacity to sue.

22. On February 22, 2018, Defendants filed their letter motion to dismiss the AC for lack of capacity to sue under seal. On March 13, 2018, Plaintiffs filed their opposition letter under seal, and on March 23, 2018, Defendants filed their reply under seal.

23. On November 26, 2018, the Court denied in part and granted in part Defendants' motion to dismiss for lack of subject-matter jurisdiction and failure to state a claim except as to JPMorgan.<sup>3</sup> The Court also granted Defendants' motion to dismiss for lack of personal jurisdiction and improper venue except for claims brought by Plaintiff FrontPoint Asian Event Driven Fund, L.P. against Defendant Macquarie Bank Ltd. ECF No. 227. In pertinent part, the Court found that the ISDA Master Agreement between FrontPoint Asian Event Driven Fund and Macquarie Bank Ltd. governed by New York law and a New York forum selection clause was sufficient to establish personal jurisdiction.

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<sup>3</sup> See ECF Nos. 227-28. The motions to dismiss were stayed as to JPMorgan pending consideration of the JPMorgan Settlement. ECF No. 227 at 1 n.1, ECF No. 228 at 1 n.1.



24. After the November 26 orders were issued, Class Counsel promptly went to work to address the pleading deficiencies identified by the Court.

**B. Second Amended Complaint (“SAC”), Second Motion to Dismiss, Motion for Reconsideration, and Motion for Judgment on the Pleadings**

25. On January 15, 2019, Dennis, Sonterra and FrontPoint filed motions for leave to file an amended complaint and for jurisdictional discovery. ECF Nos. 260-63. Attached to the motion for leave to file an amended complaint was the Proposed Second Amended Complaint (“PSAC”), in which Plaintiffs among other things added Orange County Employees Retirement System (“OCERS”) as a Plaintiff. ECF No. 263-1. The PSAC included additional information that Class Counsel had developed as they continued their investigation. Class Counsel kept up to date on the proceedings and unclassified filings in the Australian courts and engaged local Australian counsel to assist with obtain restricted filings from the proceedings. The PSAC also included allegations that OCERS transacted directly with Defendants ANZ, BNPP, CBA, Credit Suisse, Deutsche Bank, RBC, RBS, UBS and Westpac pursuant to International Swaps and Derivatives Association (“ISDA”) Master Agreements and Foreign Exchange and Options Master Agreement (“FEOMA”), and that OCERS’ transactions were directly impacted by the alleged manipulation of BBSW.

26. On February 21, 2019, the parties filed a stipulation jointly agreeing to the filing of the PSAC on the Court’s docket and setting a proposed briefing schedule for Defendants’ motion to dismiss. ECF No. 274. On March 4, 2019, the Court “so-ordered” the stipulation. ECF No. 277. On April 3, 2019, Dennis, OCERS, Sonterra and FrontPoint filed the SAC. ECF No. 281.

27. On May 20, 2019, Defendants moved to dismiss the SAC. ECF No. 298-304, 306-08. The same day, Defendants Morgan Stanley and Morgan Stanley Australia Limited, NAB,

HSBC Holdings plc and HSBC Bank Australia Limited (collectively, “HSBC”) filed their opposition to Plaintiffs’ motion for jurisdictional discovery. ECF No. 305.

28. On July 8, 2019, Dennis, OCERS, Sonterra and FrontPoint filed their oppositions to Defendants’ motions to dismiss (ECF Nos. 314-15, 317-18), and their reply in support of their motion for jurisdictional discovery. ECF No. 316. On August 7, 2019, Defendants filed their replies in support of their motions to dismiss. ECF Nos. 324-27.

29. On February 13, 2020, the Court issued an Order that denied in part and granted in part Defendants’ joint motion to dismiss the SAC, granted in part and denied in part Morgan Stanley’s separate motion to dismiss the SAC, granted RBC Capital Markets, LLC’s motion to dismiss, and denied Plaintiffs’ motion for jurisdictional discovery. ECF No. 347. In pertinent part, the Court ruled that any Defendants that had entered into master agreements with OCERS were subject to personal jurisdiction.

30. On February 27, 2020, ANZ and CBA filed a motion for reconsideration of the Court’s Order that found personal jurisdiction over ANZ and CBA concerning OCERS’s claims. ECF Nos. 350-51. On March 12, 2020, Plaintiffs filed their opposition to Defendants ANZ and CBA’s motion for reconsideration. ECF No. 355. On March 19, 2020, Defendants ANZ and CBA filed their reply in support of their motion for reconsideration. ECF No. 360. On August 4, 2020, the Court denied Defendants’ motion for reconsideration. ECF No. 394.

31. On July 27, 2020, BNP filed a motion for judgment on the pleadings pursuant to Fed. R. Civ. P. 12(c). ECF Nos. 390-92. On August 5, 2020, Deutsche Bank, UBS, and RBS, and RBC (the “Rule 12(c) Group Movants”) also filed a motion for judgment on the pleadings pursuant to Fed. R. Civ. P. 12(c) that mirrored the arguments in BNP’s motion. ECF Nos. 396-98. On

August 5, 2020, Defendant ANZ also filed a motion for judgment on the pleadings pursuant to Fed. R. Civ. P. 12(c). ECF Nos. 400-02.

32. On August 28, 2020, Plaintiffs filed their omnibus memorandum in opposition to BNP's and the Rule 12(c) Group Movants' motions for judgment on the pleadings. ECF No. 412. On September 11, 2020, Plaintiffs filed their opposition to ANZ's motion for judgment on the pleadings. ECF No. 415.

33. On September 14, 2020, BNP and the Rule 12(c) Group Movants filed their replies in support of the motions for judgment on the pleadings. ECF Nos. 416-17. On September 25, 2020, ANZ filed its reply in support of its motion for judgment on the pleadings. ECF No. 420. The Court denied ANZ's motion on March 30, 2021 without prejudice. ECF No. 458. BNP and the Rule 12(c) Group Movant's motions were denied on May 11, 2021. ECF No. 469.

### **C. Discovery**

34. Starting in 2019 and pursuant to the Court's January 16, 2019 order, Class Counsel began preparing for the issuance of notice of settlements in the Action by researching non-parties futures commission merchants, banks, brokers and exchanges who may have clients or counterparties that transacted in BBSW-Based Derivatives. After identifying the relevant non-parties, Class Counsel prepared and served subpoenas under FED. R. CIV. P. 45 requesting contact information for potential class members who may have been impacted by the alleged manipulation. After issuing the subpoenas, Class Counsel met and conferred with non-parties on multiple occasions to effectuate the production of responsive information. Class Counsel also met and conferred with the remaining Defendants to negotiate the production of counterparty information for use in notice.

35. Due to the COVID-19 pandemic, Class Counsel and Defendants negotiated a revised proposed case management plan and scheduling order, which Defendants filed on March

27, 2020. ECF No. 361. On April 10, 2020, the Court issued a scheduling order that incorporated the revisions to various discovery deadlines and due dates for certain pleadings. ECF No. 364. On June 16, 2020, Defendants filed answers to the SAC. ECF Nos. 373, 375-85.<sup>4</sup>

36. After the Court's February 13, 2020 order, Class Counsel began preparing various discovery related documents, including drafts of a protective order, an electronically stored information ("ESI") protocol, and a first set of document requests for each of the remaining Defendants. In addition, Class Counsel began research to anticipate issues that could arise in the course of discovery, including data privacy issues and the use of the Convention on the Taking of Evidence Abroad in Civil or Commercial Matters (the "Hague Evidence Convention"). Attorneys also began assembling the information that had already been uncovered in their investigation and developed a discovery strategy with respect to each remaining Defendant.

37. Class Counsel issued their first request for production of documents on or about March 31, 2020 and thereafter held at least 70 meet and confer discussions concerning the scope of the request, date ranges for production, defendants' objections to them, and potential resolutions to the disputes. Defendants served their first request for production of documents to Plaintiffs on May 11, 2020, to which Plaintiffs responded with their responses and objections on June 12, 2022.

38. At approximately the same time, Class Counsel and Defendants negotiated the scope of the protective order and the ESI protocol, which were filed by Defendants on June 12, 2020 and so ordered by the Court on June 15, 2020.

39. On October 30, 2020, Plaintiffs filed discovery motions concerning disputes related to Defendants' objections to the scope of discovery ("Scope of Discovery Motion") and time

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<sup>4</sup> Answers were filed by Defendants UBS AG ("UBS"), BNP Paribas, S.A. ("BNP"), Royal Bank of Canada ("RBC"), CBA, Morgan Stanley, Credit Suisse AG, The Royal Bank of Scotland plc ("RBS"), Westpac, ANZ, and Deutsche Bank AG ("Deutsche Bank").

period (“Time Period Motion”). ECF Nos. 427-28. On November 9, 2020, Defendants<sup>5</sup> filed an opposition to Plaintiffs’ motions (ECF Nos. 431-32), and ANZ filed a supplemental opposition to both motions. ECF No. 433.

40. Plaintiffs and then-remaining defendants ANZ, BNP, CBA, Credit Suisse, Deutsche Bank, Morgan Stanley, RBC, RBS, UBS and Westpac executed an expert stipulation on November 18, 2020, which the Court approved the following day. ECF Nos. 434-35.

41. Over the course of the next several months, Class Counsel and Defendants continued to meet and confer concerning discovery. After multiple discussions, the parties made progress on discovery.

42. On July 12, 2021, the parties advised the Court that they had substantially resolved the dispute that was the subject of the Scope of Discovery Motion, and on July 13, 2021, the Court denied Plaintiffs’ motion without prejudice to renew it if the parties were unable to resolve any remaining discovery disputes by agreement. ECF No. 471. On September 15, 2021, the Court also denied without prejudice the Time Period Motion. ECF No. 476.

43. Plaintiffs received more than 2.4 million documents during the course of this Action. Teams of attorneys spent long hours analyzing documents and synthesizing the information gathered to help Class Counsel create a roadmap of Defendants’ involvement in the alleged manipulation, and identify what information gaps still needed to be addressed.

44. Class Counsel had access to technology-aided review capabilities that effectively narrowed the documents produced by Defendants into manageable groups of documents that were

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<sup>5</sup> For Plaintiffs’ Time Period Motion, “Defendants” refers to all remaining Defendants other than the Morgan Stanley Defendants and Westpac, to which Plaintiffs’ motion was not addressed. For Plaintiffs’ Scope of Discovery Motion, “Defendants” refers to ANZ, BNP, CBA, Credit Suisse, Deutsche Bank, Morgan Stanley, RBS, RBC, and UBS.

likely to have relevant information. They leveraged in-house technological expertise to locally deploy Relativity, a sophisticated document review platform. This afforded Class Counsel unlimited access to Relativity's powerful analytics engine. Additionally, Class Counsel avoided unnecessary document hosting costs by deploying Relativity locally. These analytic capabilities meant that Class could search smarter, using elements of the alleged BBSW manipulation of which Class Counsel were aware to train the search engine on how to identify other relevant documents. Developing an analytics-based workflow enabled Class Counsel to layer several techniques simultaneously to prioritize the review of certain documents and greatly cut down the hours required of analyze the documents produced.

45. Counsel also worked with Dennis and OCERS staff to collect historical data, communications and other documents within the scope of the 52 requests for production Dennis and OCERS received. Attorneys reviewed the collections both for responsiveness and privilege prior to preparing them for production. For example, in preparation of the SAC, and Plaintiffs' opposition to the motion to dismiss the SAC, OCERS worked closely with Counsel to identify its BBSW Derivative transactions and collect relevant agreements and documents from OCERS' files and several external money managers which had executed BBSW Derivative transactions on OCERS' behalf. Then, in response to the Defendants' document requests, OCERS searched for responsive documents, and Counsel reviewed and prepared over 1,800 OCERS documents, representing over 23,000 pages, for production. OCERS made three document productions and had a fourth production finalized before settlement occurred. Dennis produced documents comprising 2,270 pages in October 2020. In addition, Counsel for the parties exchanged numerous meet and confer letters and held several lengthy telephonic conferences to discuss the nature and scope of the parties' requests, objections, and responses.

46. On September 24, 2021, Plaintiffs, with the consent of the non-settling Defendants, asked the Court to extend the deadline to serve requests for admissions under the Case Management and Scheduling Order (“CMO”) from September 29, 2021 to November 15, 2021. ECF No. 477. On November 10, 2021, Plaintiffs separately moved for a ten-month extension of the November 15, 2021 fact discovery cut-off and related deadlines in the CMO. ECF No. 483-84.

47. Prior to the completion of discovery, all remaining non-dismissed Defendants entered into Settlement Agreements with Plaintiffs.

#### **D. Settlement Negotiations**

48. At the time the Settlement Agreements were being negotiated, Class Counsel were experienced in prosecuting claims under the Commodity Exchange Act (“CEA”), 7 U.S.C. §§ 1 *et seq.*, Sherman Antitrust Act, 15 U.S.C. §§ 1 *et seq.*, and Racketeer Influenced and Corrupt Organizations Act (“RICO”), 18 U.S.C. §§ 1961 *et seq.* See ECF Nos. 452-6, 452-7 (firm resumes). Lowey Dannenberg and Lovell Stewart have previously conducted multiple successful prosecutions that produced pretrial settlements, including what were at the time the first, second, third, and fourth largest class action recoveries under the CEA.<sup>6</sup> Class Counsel serve as lead or co-lead counsel in at least eight actions, including this one, bringing antitrust and/or CEA claims for the manipulation of global benchmark rates. See *Laydon v. Mizuho Bank, Ltd.*, No. 12-cv-3419 (GBD) (S.D.N.Y.), and *Sonterra Capital Master Fund, Ltd. v. UBS AG*, No. 15-cv-5844 (GBD) (S.D.N.Y.) (Yen-LIBOR/ Euroyen TIBOR); *Sullivan v. Barclays plc*, No. 13-cv-2811 (PKC)

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<sup>6</sup> See *In re Sumitomo Copper Litigation*, Master File No. 96 CV 4854 (S.D.N.Y.) (Pollack, J.) (\$149 million settlement); *Hershey v. Pacific Investment Management Corp.*, Case No. 05-C-4681 (RAG) (N.D. Ill.) (\$118.75 million settlement); *In re Natural Gas Commodity Litigation*, Master File No. 03 CV 6186 (S.D.N.Y.) (Marrero, J.) (\$101 million settlement); and *In re Amaranth Natural Gas Commodities Litigation*, Master File No. 07 Civ. 6377 (S.D.N.Y.) (Scheindlin, J.) (\$77.1 million settlement).

(S.D.N.Y.) (Euribor); *In re LIBOR-Based Fin. Instruments Antitrust Litig.*, MDL No. 2262, No. 11 Civ. 2613 (U.S. Dollar LIBOR Exchange-Based Plaintiffs); *Sonterra Capital Master Fund Ltd., et al. v. Credit Suisse Group AG, et al.*, No. 16-cv-06496 (LAK) (S.D.N.Y.) (Swiss franc LIBOR); *Fund Liquidation Holdings LLC, et al. v. Citibank, N.A., et al.*, No.: 16-cv-05263 (AKH) (S.D.N.Y.) (SIBOR and SOR); *Sonterra Capital Master Fund Ltd., et al. v. Barclays Bank PLC, et al.*, No. 15-cv-03538 (VSB) (S.D.N.Y.) (Sterling LIBOR).

49. Mr. Briganti has more than twenty-five years of experience in developing and leading the prosecution of federal commodity manipulation, antitrust, and securities litigation matters. This experience includes recently obtaining, as court-appointed lead or co-lead counsel, over \$1,000,000,000 in settlements in cases involving similar benchmark manipulation and other antitrust actions. *See Laydon v. Mizuho Bank, Ltd.*, No. 12-cv-3419 (GBD) (S.D.N.Y.) & *Sonterra Capital Master Fund Ltd., et al. v. UBS AG, et al.*, No. 15-cv-5844 (S.D.N.Y.) (\$307 million in total settlements related to manipulation of Yen-LIBOR and Euroyen TIBOR); *Sullivan v. Barclays plc*, No. 13-cv-2811 (PKC) (S.D.N.Y.) (settlements totaling \$491.5 million for alleged Euribor manipulation); *In re GSE Bonds Antitrust Litigation*, No. 19-cv-1704 (JSR) (S.D.N.Y.) (settlements totaling \$386.5 million relating to the alleged manipulation of unsecured bonds issued by U.S. government sponsored entities).

50. Christopher Lovell, founding and senior partner of Lovell Stewart, has more than 40 years of experience with antitrust and commodity futures claims. Lovell Stewart and its predecessors (the “Lovell Firm”) have obtained, as Court appointed Lead Counsel or Co-Lead Counsel, what were at the times the largest class action recoveries under three federal statutes, two of which (the antitrust laws and commodity laws) are the primary statutes at issue here. *See* ECF



No. 452-7 (firm resume). The Lovell Firm has successfully tried antitrust and derivatives claims. The Firm has recovered billions of dollars for the benefit of its clients or class members. *Id.*

51. Before reaching the Settlements, Class Counsel was well informed regarding the strengths and weaknesses of Plaintiffs' claims. Lowey Dannenberg and Lovell Stewart extensively reviewed and analyzed available documents and information, including: (i) government investigation disclosures and related settlements, including plea, non-prosecution and deferred prosecution agreements concerning BBSW or other benchmarks; (ii) publicly available information relating to the conduct alleged in Plaintiffs' complaints; (iii) expert and industry research regarding BBSW and BBSW-Based Derivatives traded in the futures and over-the-counter markets; (iv) cooperation materials from settling defendants; (v) numerous dispositive motions filed by Defendants; and (vi) prior decisions of this Court and others deciding similar issues.

52. In addition, Class Counsel: (a) conducted an extensive investigation into the facts and legal issues in this action; (b) engaged in extensive negotiations with the Settling Defendants; and (c) took many other steps to research and analyze the strengths and weaknesses of the claims.

53. The negotiations leading to the Settlement Agreements were entirely non-collusive and strictly arm's-length. During the course of negotiations, Plaintiffs had the benefit of developing information from various sources, including certain publicly available government settlements and orders, other public accounts of alleged manipulation involving BBSW, and counsel's investigation into Plaintiffs' claims. Negotiations were hard-fought and deliberative, with each side raising issues and arguments that well-represented the interests of their clients. We were involved in all material aspects of the settlement negotiations on behalf of Plaintiffs. In addition, the Defendants were each represented by large, leading international law firms that have

significant experience defending federal class action claims arising under the antitrust law and the CEA.

54. **Settlement Negotiations with JPMorgan.** The negotiations with JPMorgan took more than one year, beginning in April 2017 and continuing until the Agreement was executed on November 20, 2018.

55. During the initial settlement negotiations on or around April 12, 2017, Class Counsel and JPMorgan shared their views on the perceived strengths and weaknesses of the litigation as well as JPMorgan's litigation exposure. Over the next several months, Class Counsel and counsel for JPMorgan continued their negotiations reflecting their evolving views of the case, their perceptions of a fair, reasonable and adequate settlement and other cooperation that might be available in the settlement.

56. During these negotiations, Class Counsel and counsel for JPMorgan discussed the material terms of the settlement, including the amount of the settlement consideration, the scope of the cooperation to be provided by JPMorgan, the scope of the releases, and the circumstances under which the Parties would have the right to terminate the settlement.

57. On June 5, 2018, Class Counsel and counsel for JPMorgan signed a Term Sheet that reflected the terms on which the parties agreed, subject to the preparation of a full Settlement Agreement, to settle Plaintiffs' claims against JPMorgan. At the time the Term Sheet was executed, Class Counsel were well-informed about the legal risks, factual uncertainties, potential damages and other aspects of the strengths and weaknesses asserted. The next day, the parties reported to the Court and other Defendants that a settlement had been reached.

58. Following months of arm's-length negotiations, consisting of additional discussions and exchanges of draft settlement terms, Class Counsel, on behalf of Plaintiffs and

JPMorgan entered into the Settlement Agreement on November 20, 2018. In addition to the settlement amount, JPMorgan agreed to provide Plaintiffs with cooperation materials early in the Action that further aided Plaintiffs' prosecution.

59. The JPMorgan Settlement Agreement was not the product of collusion. Before any financial numbers were discussed in the settlement negotiations and before any demand or counter-offer was ever made, we were well-informed about the legal risks, factual uncertainties, potential damages, and other aspects of the strengths and weaknesses of the claims against JPMorgan.

60. Lowey Dannenberg and Lovell Stewart believe that the consideration that JPMorgan agreed to provide—an "ice-breaker" settlement payment of \$7,000,000 for the benefit of the Class and substantial cooperation—is within the range of that which may be found to be fair, reasonable, and adequate.

61. **Settlement Negotiations with Westpac.** The settlement negotiations with Westpac began approximately in May 2020 and concluded on March 1, 2021 when the Settlement was executed.

62. Throughout the settlement negotiations, Class Counsel and Westpac's counsel exchanged their respective views on the perceived strengths and weaknesses of the litigation, as well as counsel's perception of a fair, reasonable and adequate settlement. As the settlement discussions progressed, Class Counsel and counsel for Westpac negotiated the material terms of the Settlement, including the amount of the monetary consideration, the scope of the cooperation to be provided by Westpac, the scope of the releases, and the circumstances under which the Parties would have the right to terminate the Settlement.

63. Following several months of arm's-length negotiations, on October 27, 2020, Class Counsel and Westpac's counsel signed a Memorandum of Understanding ("MOU") that reflected

the material terms on which the parties agreed, subject to the preparation of a full stipulation of settlement, to settle Plaintiffs' claims against Westpac. At the time the MOU was executed, Class Counsel were well-informed about the legal risks, factual uncertainties, potential damages and other aspects of the strengths and weaknesses asserted. The next day, the parties reported to the Court and other Defendants that a settlement had been reached.

64. Following several months of additional arm's-length negotiations and exchanges of settlement agreement drafts and related settlement papers, Class Counsel, on behalf of Plaintiffs, and Westpac entered into the Westpac Settlement on March 1, 2021.

65. On March 2, 2021, Plaintiffs filed their motion to conditionally certify the Settlement Class in connection with the proposed class action settlement with Westpac. ECF Nos. 450-54. The Court granted the motion on March 30, 2021. ECF Nos. 457, 459-60.

66. The Westpac Settlement Agreement was not the product of collusion. Before any financial numbers were discussed during the settlement negotiations and before any demand or counter-offer was ever made, we were well-informed about the legal risks, factual uncertainties, potential damages, costs, delay of trial and appeal, and other aspects of the strengths and weaknesses of the claims against Westpac.

67. Lowey Dannenberg and Lovell Stewart believe that the consideration that Westpac has agreed to provide—a \$25,000,000 payment for the benefit of the Class and substantial cooperation—is within the range of that which may be found to be fair, reasonable, and adequate.

68. **Settlement Negotiations with ANZ, CBA, NAB, and Morgan Stanley.** These Settlement Agreements were preceded by several months of arm's-length negotiations. Throughout the settlement negotiations, Class Counsel and Counsel for ANZ, CBA, NAB, and Morgan Stanley shared their views on the perceived strengths and weaknesses of the litigation—

including any updated views of the case, as applicable—as well as views on the respective settling defendant’s litigation exposure, their perceptions of a fair, reasonable and adequate settlement, and other cooperation that might be available in the settlement.

69. Negotiations with ANZ and CBA began in November 2020. After numerous discussions concerning each side’s strengths and weaknesses in the litigation, Plaintiffs and ANZ and CBA each reached agreement on a binding term sheet on March 20, 2021. Several more months of negotiations were necessary to reach agreement on the scope of obligations detailed in the respective ANZ and CBA Settlements. After more than eight months of back and forth, hard fought and difficult negotiations, Plaintiffs and ANZ executed the ANZ Settlement on December 10, 2021, and CBA and Plaintiffs executed the CBA Settlement on December 10, 2021. There were no admissions made by ANZ or CBA in their respective settlements.

70. Morgan Stanley and Plaintiffs began discussing a potential settlement of the Action in December 2020. These negotiations were also hard fought, involving significant discussion of each side’s positions and applicable risks to the case. Plaintiffs and Morgan Stanley reached agreement on a term sheet on February 19, 2021. After several more months of negotiations over the specific terms of the agreement, Morgan Stanley and Plaintiffs executed the Morgan Stanley Agreement on October 1, 2021.

71. Following preliminary discussions at earlier points in the litigation, Plaintiffs and NAB began settlement discussions in May 2021 that were both hard fought and fast paced. After discussions concerning each side’s strengths and weaknesses in the litigation and the risks and uncertainties the parties would face in litigation, Plaintiffs and NAB reached agreement on a settlement term sheet that they executed on June 17, 2021. Additional negotiations continued to

resolve the terms of the agreement, and the parties executed the NAB Settlement on December 10, 2021.

72. On December 10, 2021, Dennis and OCERS submitted a motion seeking conditional certification for purposes of Plaintiffs' proposed class action settlements with Defendants ANZ, CBA, NAB and Morgan Stanley. ECF Nos. 488-94.

73. On January 13, 2022, Dennis and OCERS submitted a motion seeking approval of a plan and form of notice and the scheduling of a fairness hearing for purposes of Plaintiffs' six proposed class action settlements with ANZ, CBA, NAB, Morgan Stanley, JPMorgan, and Westpac. ECF Nos. 506-14. The Court granted this motion on February 1, 2022 and entered orders that approved the plan and form of notice and set a fairness hearing. ECF Nos. 525-30.

74. On February 1, 2022, the Court granted Plaintiffs' December 10, 2021 motion and entered conditional certification orders for purposes of Plaintiffs' proposed class action settlements with Defendants ANZ, CBA, NAB and Morgan Stanley. ECF Nos. 518-521. The Court also entered superseding conditional certification orders for purposes of Plaintiffs' proposed class action settlements with Defendants Westpac and JPMorgan. ECF Nos. 517, 522. Additionally, the Court granted Plaintiffs' January 13, 2022 motion and entered orders that approved the plan and form of notice and set a fairness hearing. ECF Nos. 525-530.

75. The ANZ, CBA, NAB and Morgan Stanley Settlement Agreements were not the product of collusion. Before any financial numbers were discussed during the settlement negotiations and before any demand or counteroffers were ever made, we were well-informed about the legal risks, factual uncertainties, potential damages, costs, delay of trial and appeal, and other aspects of the strengths and weaknesses of the claims against these settling defendants.

76. Lowey Dannenberg and Lovell Stewart believe that the consideration that settling defendants have agreed to provide—Morgan Stanley— \$7,000,000; ANZ— \$35,500,000; CBA— \$35,500,000; and NAB— \$27,000,000 for the benefit of the Class and substantial cooperation—is within the range of which may be found to be fair, reasonable, and adequate. Regarding NAB, for example, this Court had previously dismissed all of Plaintiffs’ claims against NAB, and the settlement negotiations occurred and the settlement was reached.

77. **Settlement Negotiations with Credit Suisse.** The Credit Suisse Settlement Agreement was preceded by several months of arm’s-length negotiations. Throughout the settlement negotiations, Class Counsel and counsel for Credit Suisse shared their views on the perceived strengths and weaknesses of the litigation—including any updated views of the case, as applicable—as well as Credit Suisse’s litigation exposure, their perceptions of a fair, reasonable and adequate settlement, and other cooperation that might be available in the settlement.

78. Negotiations with Credit Suisse began in early May 2021. After more than nine months of back and forth, hard fought and difficult negotiations, Plaintiffs and Credit Suisse executed the Settlement Agreement on January 21, 2022.

79. The Credit Suisse Settlement Agreement was not the product of collusion. Before any financial numbers were discussed during the settlement negotiations and before any demand or counteroffers were ever made, we were well-informed about the legal risks, factual uncertainties, potential damages, costs, delay of trial and appeal, and other aspects of the strengths and weaknesses of the claims against Credit Suisse.

80. Lowey Dannenberg and Lovell Stewart believe that the consideration that Credit Suisse has agreed to provide for the benefit of the Class—\$8,875,000 in cash payments and

substantial cooperation—is within the range of that which may be found to be fair, reasonable, and adequate.

81. **Settlement Negotiations with the Group Settling Defendants.** The Group Settling Defendants Settlement was preceded by months of arm's length negotiations. Class Counsel and counsel for the Group Settling Defendants exchanged their views on the perceived strengths and weaknesses of the litigation.

82. The negotiations with the Group Settling Defendants began in May 2021. The parties executed the Group Settlement Agreement on April 29, 2022, after more than ten months of hard-fought negotiations. The Group Settlement Agreement was not the product of collusion. Class Counsel were well-informed about the legal risks, factual uncertainties, potential damages, costs, delay of trial and appeal, and other aspects of the strengths and weaknesses of the claims against the Group Settling Defendants before the settlement negotiations began.

83. In advance of filing an additional motion for conditional certification of the Settlements with Credit Suisse and the Group Settling Defendants, Dennis and OCERS submitted a letter to the Court on April 27, 2022 seeking an adjournment of the Class Notice schedule and the fairness hearing to allow all of the Settlements to be included in a single Class Notice and considered at a single fairness hearing.

84. On April 29, 2022, Plaintiffs submitted a motion seeking conditional certification and approval of the updated plan and forms of notice for purposes of Plaintiffs' proposed class action settlements with Defendant Credit Suisse and the Group Settling Defendants. ECF Nos. 534-36.

85. On May 11, 2022, the Court granted Plaintiffs' April 29, 2022 motion and entered conditional certification orders for purposes of Plaintiffs' proposed class action settlements with



Defendant Credit Suisse and the Group Settling Defendants. ECF Nos. 542, 544. The Court also entered superseding conditional certification orders for purposes of Plaintiffs' proposed class action settlements with Defendants ANZ, CBA, NAB, Morgan Stanley, JPMorgan, and Westpac. ECF No. 543.

86. The Group Settlement Agreement was not the product of collusion. Before any financial numbers were discussed during the settlement negotiations and before any demand or counteroffers were ever made, we were well-informed about the legal risks, factual uncertainties, potential damages, costs, delay of trial and appeal, and other aspects of the strengths and weaknesses of the claims against Credit Suisse.

87. Lowey Dannenberg and Lovell Stewart believe that the consideration that the Group Settling Defendants have agreed to provide for the benefit of the Class—\$40,000,000 in cash payments and certain cooperation—is within the range of that which may be found to be fair, reasonable, and adequate.

#### **E. Implementation of Class Notice Plan and Response**

88. As detailed in the Declaration of Jack Ewashko of A.B. Data, Ltd., pursuant to the Court-approved notice program, A.B. Data mailed a total of 52,560 copies of the Notice of Proposed Class Action Settlement, November 1, 2022 Fairness Hearing Thereon and Class Members' Rights (the "Mailed Notice") and the Proof of Claim and Release (together, the "Notice Packet"), via first-class mail, to Settlement Class Members. ECF No. 548-1 at ¶ 12. Additionally, A.B. Data posted the Mailed Notice, Publication Notice, and Claim Form, along with other relevant documents, on the website developed for this Settlement, [www.BBSWSettlement.com](http://www.BBSWSettlement.com), and has caused the Publication Notice to be published as described in the Class Notice Plan. *Id.* at ¶¶ 5-21.

89. To date, there have been no objections to the Settlement or to the attorneys' fees, expense payment, and Incentive Award amounts described in the Class Notice, and only one request for exclusion. *Id.* at ¶¶ 26, 28.

**F. Development of the Plan of Distribution**

90. For several months, beginning in 2021 and continuing through 2022, Class Counsel consulted with industry experts and economic consultants to consider a proposed Plan of Distribution. ECF No. 552-1. Net Settlement Funds will be allocated *pro rata* based on the volume proxy of each Class Member's total exposure to Defendants' alleged manipulation of BBSW-Based Derivatives, referred to in the Plan of Distribution as the Transaction Notional Amount. Assuming all other factors are the same, transactions with higher notional values will receive a greater Transaction Notional Amount, as will transactions that have a greater number of interest rate payments compared to transactions with the same notional value but fewer payments. To account for evidence identified by Plaintiffs' experts concerning the increased frequency of alleged BBSW manipulative activity during the years of 2005 through 2012, the Plan of Distribution includes an adjustment factor that weighs more heavily the volume of transactions in those years, with the greatest weights being placed on transactions occurring between 2009 and 2012. The adjustments approximate the estimated increase in the frequency of the alleged manipulation compared to the start and end of the Class Period.

91. The Settlement Administrator will sum each Authorized Claimant's Transaction Notional Amounts for all of its eligible BBSW-Based Derivative Transactions (the "Transaction Claim Amount") and will divide by the sum of all calculated Transaction Claim Amounts to determine the Authorized Claimant's *pro rata* fraction. Each Authorized Claimant's *pro rata* fraction will be multiplied by the Net Settlement Fund to determine the Authorized Claimant's

payment amount. Authorized Claimants whose distribution is expected to be less than the costs of administering the Claim will receive a Minimum Payment Amount. In consultation with Class Counsel, the Settlement Administrator will implement a reasonable minimum payment threshold to ensure that administrative costs of issuing small payments do not deplete the Fund.

92. Volume-based distribution plans have been preliminarily or finally approved in other complex class action in this District, including *In re London Silver Fixing, Ltd. Antitrust Litig.*, Nos. 14-md-2573, 14-mc-2573 (VEC) (S.D.N.Y.), *Alaska Elec. Pension Fund, et. al., v. Bank of Am., N.A., et. al.*, No. 14-cv-7126 (JMF), and *Fund Liquidation Holdings, LLC v. Citibank, N.A.*, No. 16-cv-5263 (AKH).

### **III. CLASS COUNSEL’S APPLICATION FOR AN AWARD OF ATTORNEYS’ FEES AND PAYMENT OF EXPENSES**

93. In March 2018, OCERS retained Berman Tabacco (“Berman Tabacco” or together with Class Counsel, “Counsel”) to work with Class Counsel to bring claims on its behalf in this Action relating to the alleged manipulation of BBSW. Since then, OCERS has been an active and engaged Plaintiff, involved in nearly every aspect of the litigation. OCERS provides retirement and disability benefits to more than 49,000 active, deferred, and retired government employees of Orange County, California and their beneficiaries and has a keen interest in protecting the interests of its members and ensuring financial markets are free from manipulative and anticompetitive forces.

94. Counsel has been in regular discussion with OCERS concerning relevant legal developments and factual discovery, Class Counsel’s updated views on the strengths and risks of the litigation, and the status of settlement discussions. Since joining the case, OCERS and Counsel have had numerous communications on all aspects of the litigation, starting with the relevant allegations to incorporate into the SAC, through to discovery, settlement negotiations, and up to

the submission of the motions for final approval of the Settlements and for attorneys' fees and expenses. Consistent with its fiduciary duties, OCERS closely supervised Counsel's work in the Action and was involved in nearly every strategic decision in the case.

95. OCERS negotiated a sliding scale contingent fee agreement with Counsel in the event any settlements were achieved or the cases was prosecuted to a successful trial verdict.

96. The Class Notice advised the Settlement Class that Class Counsel would apply for an award of attorneys' fees in an amount not to exceed one-third of the Settlement Funds, plus no more than \$1,250,000 for payment of litigation expenses and costs, and interest on such attorneys' fees and litigation expenses and costs.

97. Now Class Counsel respectfully request that this Court award attorneys' fees in the amount of \$47,218,750, which is approximately 25.4% of the \$185,875,000 common fund created by the Settlements with Settling Defendants, and \$845,471.57 as reimbursement for the costs and expenses incurred by Counsel in the Action. The Fee and Expense Application submitted herewith is fully consistent with the Class Notice and the sliding fee scale in Counsel's agreement with OCERS.

98. We have been informed that OCERS' general counsel, Gina M. Ratto, has reviewed the present motions, including the Fee and Expense Application. Ms. Ratto has been actively involved in analyzing the risks of prosecution and observed first-hand the skillfulness of Counsel's efforts to prosecute the claims. Based upon all of Ms. Ratto's observations and work, OCERS has determined to affirmatively support Class Counsel's fee request. *See Declaration of Gina M. Ratto in Support of Plaintiffs' Motion for Final Approval of the Class Action Settlements and Class Counsel's Motion for Award of Attorneys' Fees and Reimbursement of Expenses ("Ratto Decl.")*, at ¶ 19.

99. In further support of the Fee and Expense Application, Counsel have submitted declarations summarizing work performed, the hours worked, and the corresponding lodestar, as well as the expenses incurred in prosecuting this Action. *See* Declaration of Vincent Briganti; Declaration of Benjamin M. Jaccarino; Declaration of Todd A. Seaver, filed herewith. In total, Counsel have performed 53,814.49 hours in this Action, with a corresponding lodestar value of \$29,908,595.15 based on historical rates. If the attorneys' fee request of \$47,218,750 is granted, the risk multiplier on the total lodestar incurred will be 1.58. *See* Mem. in Support of Class Counsel's Motion for Award of Attorneys' Fees and Reimbursement of Expenses at Argument, Part I.A. (filed herewith). Each firm's declaration includes schedules that summarize the fee compensable hours and lodestar of the firm from the inception of this Action to June 30, 2022, and each firm audited the time and lodestar for accuracy, necessity, and reasonableness. As a result of this review, where appropriate, time and lodestar were reduced in the exercised of billing judgment. Lodestar figures do not include charges for expense items.

100. The following chart summarizes the aggregate hours and lodestar of Class Counsel, as set forth in more detail in the separate firm declarations.

Firm Name	Hours	Lodestar
Lowey Dannenberg, P.C.	22,671.02	\$12,009,690.35
Lovell Stewart Halebian Jacobson LLP	25,113.62	\$15,190,556.80
Berman Tabacco	6,029.85	\$2,708,348.00
<b>Total:</b>	<b>53,814.59</b>	<b>\$29,908,595.15</b>

101. As Class Counsel's firm resumes (*see* ECF Nos. 452-6, 452-7) demonstrate, Class Counsel are skilled and accomplished litigators in the antitrust and commodities litigation fields, among others, with successful track records in some of the largest class actions throughout the country.

102. Class Counsel bore the risk of litigating and funding this Action entirely on a contingent basis. There have been numerous contingency-fee cases in which counsel have contributed thousands of hours of service to the class' claims and advanced substantial sums of money, only to receive no compensation for their work.

103. Notwithstanding the risk of non-payment, Class Counsel fully devoted substantial attorney time and resources to the prosecution of the Action. Recognizing the complexities of the claim, Class Counsel also enlisted expert resources, which further increased the financial risk they undertook. Expert costs totaled \$509,131.59, or 60% of total costs. Once discovery commenced, Class Counsel set up and managed document review using their in-house document management system for a total of \$301,481.53, a significant costs savings compared to utilizing an outside vendor for hosting. The expenditure of these and other litigation costs were reasonably necessary to effectively litigate the Action and are further evidence of Class Counsel's commitment. Summaries of the expenses by category can be found in Class Counsel's separate declarations in support of the Fee and Expense Application.

104. In total, Class Counsel seeks expenses in the amount of \$845,471.57, plus interest. The categories of expenses, the amount incurred and disbursed by each firm, and the basis for the reasonableness of each firm's expenses are set forth in the respective concurrently filed individual declarations.

105. The total expenses incurred by Class Counsel are as follows.

Firm Disbursements	
Expense Category	Amount
Court Costs	\$1,681.48
Experts/Consultants	\$509,131.59
Federal Express	\$1,092.89
Travel	\$4,191.04

Computer Research/Data	\$138,879.53
Document Review, IT and Maintenance	\$162,602.00
Messenger/Delivery	\$97.00
Photocopies – in House	\$21,828.20
Postage	\$37.22
Service of Process	\$4,993.38
Telephone/Telecopier	\$937.24
<b>Total:</b>	<b>\$845,471.57</b>

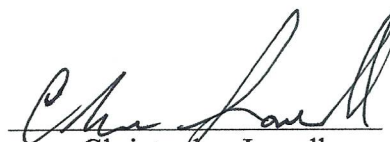
#### IV. CONCLUSION

106. For the reasons set forth above, in the accompanying memoranda of law, and the record in this Action, we respectfully submit that: (i) the Settlements are fair, reasonable, and adequate and should be approved; (ii) the Plan of Distribution is fair and reasonable and should be approved; and (iii) the Fee and Expense Application is reasonable, supported by the facts and law, and should be granted.

We declare under penalty of perjury that the foregoing is true and correct to the best of our personal knowledge, information and belief.

Dated: August 18, 2022

/s/ Vincent Briganti  
Vincent Briganti

  
Christopher Lovell

# **EXHIBIT A**



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

RICHARD DENNIS, *et al.*, on behalf of themselves and all  
others similarly situated,

Plaintiffs,

v.

JPMORGAN CHASE & CO., *et al.*

Defendants.

Case No.: 1:16-cv-6496 (LAK)

**PROOF OF CLAIM AND  
RELEASE**

**I. INSTRUCTIONS**

1. If you transacted in, purchased, sold, held, traded, or otherwise had any interest in BBSW-Based Derivatives during the period from January 1, 2003, through August 16, 2016 (the “Class Period”), you may be eligible to receive a payment from the settlements reached between Representative Plaintiffs and JPMorgan Chase & Co. and JPMorgan Chase Bank, N.A. (collectively, “JPMorgan”), Westpac Banking Corporation (“Westpac”), Australia and New Zealand Banking Group Ltd. (“ANZ”), Commonwealth Bank of Australia (“CBA”), National Australia Bank Limited (“NAB”), Morgan Stanley and Morgan Stanley Australia Limited (collectively, “Morgan Stanley”), Credit Suisse AG and Credit Suisse Group AG (“Credit Suisse”), BNP Paribas, S.A. (“BNPP”), Deutsche Bank AG (“Deutsche Bank”), Royal Bank of Canada (“RBC”), The Royal Bank of Scotland plc (n/k/a NatWest Markets plc) (“RBS”), and UBS AG (“UBS”), (the “Settling Defendants”) totaling \$185,875,000 in the above-captioned case.

2. “BBSW-Based Derivatives” means any financial derivative instrument that is based or priced in whole or in part in any way on BBSW or in any way includes BBSW as a component of price (whether priced, benchmarked and/or settled by BBSW), entered into by a U.S. Person, or by a person from or through a location within the U.S., including, but not limited to: (i) Australian dollar foreign exchange (“FX”) derivatives, including Australian dollar FX forwards (also known as “outright forwards” or “outrights”), Australian dollar FX swaps (also known as “currency swaps”), Australian dollar currency options, Australian dollar futures contracts (such as the Chicago Mercantile Exchange (“CME”) Australian dollar futures contract) and options on such futures contracts; (ii) BBSW-based interest rate derivatives, including interest rate swaps, swaptions, forward rate agreements (“FRAs”), exchange-traded deliverable swap futures and options on those futures, 90-day bank accepted bill (“BAB”) futures and options on those futures, and other over-the-counter (“OTC”) contracts or publicly traded vehicles that reference BBSW; (iii) Australian dollar cross-currency swaps; and (iv) any other financial derivative instrument or transaction based in whole or in part on BBSW, or that in any way incorporates BBSW as a component of price, or is alleged by Representative Plaintiffs in this Action to be based in whole or in part on BBSW, or to in any way incorporate BBSW as a component of price. For the avoidance of doubt, BBSW-Based Derivatives do not include: (i) any BBSW-Based Deposits or Loans; or (ii) any Prime Bank Bills or Prime Bank eligible securities.

3. “BBSW” means the Bank Bill Swap Reference Rate.

4. Unless otherwise defined herein, all capitalized terms contained in this proof of claim and release (“Claim Form”) have the same meaning as in the accompanying **Notice of Proposed Class Action Settlements, November 1, 2022 Fairness Hearing Thereon, and Class Members’ Rights** (“Notice”) and the Settlement Agreements between Representative Plaintiffs and the respective Settling Defendants, which are available at [www.bbswsettlement.com](http://www.bbswsettlement.com) (the “Settlement Website”).

5. It is important that you read the Notice that accompanies this Claim Form. By signing and submitting this Claim Form, you will be certifying that you have read the Notice, including the terms of the Release and Covenant Not to Sue described in the Notice under the heading “What Am I Giving Up to Receive a Payment?” and provided for in the Settlement Agreement.

6. To be eligible to receive a payment from the Net Settlement Fund, you must submit a timely and valid Claim Form along with the required data and/or information described in Parts II through IV below. **To be considered**

This Form Must Be Submitted Online OR  
Postmarked and Mailed No Later Than  
JANUARY 16, 2023.

**timely, your Claim Form must be submitted online at [www.bbswsettlement.com](http://www.bbswsettlement.com) by 11:59 p.m. Eastern Time on January 16, 2023 OR postmarked and mailed to the Settlement Administrator no later than January 16, 2023, to:**

**BBSW Class Action Settlement  
c/o A.B. Data, Ltd.  
P.O. Box 173031  
Milwaukee, WI 53217**

Do not submit your claim to the Court.

If you are unable to submit the required data as described below in Parts II through IV, you should call the Settlement Administrator for further instructions.

7. As described in Part III below, you are required to submit additional information about your transactions in BBSW-Based Derivatives as part of your Claim Form to be submitted to the Settlement Administrator.

8. Your payment amount will be determined based on the Settlement Administrator's review of your Claim Form and calculated pursuant to the Distribution Plan that the Court approves. Submission of a Claim Form does not guarantee that you will receive a payment from the Settlement. For more information, please refer to the Notice and Distribution Plan available at the Settlement Website.

9. Separate Claim Forms should be submitted for each separate legal entity. Conversely, a single Claim Form should be submitted on behalf of only one legal entity.

10. If you have questions about submitting a Claim Form or need additional copies of the Claim Form or the Notice, you may contact the Settlement Administrator.

11. **NOTICE REGARDING ELECTRONIC FILES:** Certain claimants with large numbers of transactions may request, or may be requested by the Settlement Administrator, to submit information regarding their transactions in electronic files. All such claimants **MUST** also submit a manually signed paper Proof of Claim listing all of their transactions whether or not they also submit electronic copies. If you wish to submit your claim electronically, you must contact the Settlement Administrator at [info@bbswsettlement.com](mailto:info@bbswsettlement.com) or visit [www.BBSWSETTLEMENT.com](http://www.BBSWSETTLEMENT.com) to obtain the required file layout. No electronic files will be considered to have been properly submitted unless the Settlement Administrator issues to the claimant an email of receipt and acceptance of electronically submitted data. **Do not assume that your file has been received until you receive this email. If you do not receive such an email within 10 days of your submission, you should contact the Settlement Administrator's electronic filing department at [efiling@abdata.com](mailto:efiling@abdata.com) to inquire about your file and confirm it was received.**





This Form Must Be Submitted Online OR  
Postmarked and Mailed No Later Than  
JANUARY 16, 2023.

### III. REQUIREMENTS FOR CLAIM SUBMISSION

#### 1. YOU MUST SUBMIT YOUR CLAIM FORM IN THE REQUIRED FORMAT

Claimants must electronically submit their Claim Forms online at [www.bbswsettlement.com](http://www.bbswsettlement.com) by **11:59 p.m. Eastern Time on January 16, 2023** OR mail the Claim Forms to the Settlement Administrator at BBSW Class Action Settlement, c/o A.B. Data, Ltd., P.O. Box 173031, Milwaukee, WI 53217 so they **are postmarked and mailed no later than January 16, 2023**. Claim Forms must be submitted in the format specified in this Claim Form or posted by the Settlement Administrator on the Settlement Website.

Along with your Claim Form, you are required to submit the details of your transactions in BBSW-Based Derivatives reflected in Part IV, below. A Data Template, including the information you must provide about your transactions in BBSW-Based Derivatives is below and also available at the Settlement Website. In addition, please provide any of the following types of supporting documentation that verifies the transaction information you provide:

- a. Transaction data from your bank, broker, or internal trade system;
- b. Bank confirmations by individual trade;
- c. Bank transaction reports or statements;
- d. Trading venue transaction reports or statements;
- e. Prime broker reports or statements;
- f. Custodian reports or statements;
- g. Daily or monthly account statements or position reports;
- h. Email confirmations from counterparty evidencing transactions;
- i. Bloomberg confirmations or communications evidencing transactions; and/or
- j. Other documents evidencing transactions in BBSW-Based Derivatives during the Class Period.

Please keep all data and documentation related to your eligible BBSW-Based Derivatives transactions. Having data and documentation may be important to substantiating your Claim Form.

**ACCURATE CLAIMS PROCESSING TAKES A SIGNIFICANT AMOUNT OF TIME.  
THANK YOU IN ADVANCE FOR YOUR PATIENCE.**

This Form Must Be Submitted Online OR  
Postmarked and Mailed No Later Than  
JANUARY 16, 2023.

#### IV. TABLE OF TRANSACTIONS IN BBSW-BASED DERIVATIVES

Complete this Part IV if and only if you entered into transactions in BBSW-Based Derivatives from January 1, 2003 through August 16, 2016. Do not include information regarding instruments other than BBSW-Based Derivatives and do not include transactions in BBSW-Based Derivatives in which you acquired the instrument as an agent for another individual or entity.

##### **List of Brokers or Nominees**

Please list all brokers or nominees at which you maintained accounts in which you traded or held BBSW-Based Derivatives.


##### **List of Account Names and Account Numbers**

Please provide a list of all account names and account numbers for each entity you listed in response above in which you traded or held BBSW-Based Derivatives.


This Form Must Be Submitted Online OR  
Postmarked and Mailed No Later Than  
JANUARY 16, 2023.

**TABLE I-A – PURCHASE(S) AND SALE(S) OF SWAPTIONS, FRAS, AND SWAPS WITH A CONSTANT NOTIONAL VALUE DURING THE CLASS PERIOD**

For each purchase or sale of a swaption, FRA, and/or swap with a notional value that remained constant during the contract period, provide the following information for each transaction.

<b>Transaction Type (e.g., swap, swaption, FRA)</b>	<b>Trade Date (mm/dd/yyyy)</b>	<b>Applicable Rate and Duration (Tenor)</b>	<b>Notional Value (in AUD) for Interest Payment</b>	<b>Frequency of Reset Dates</b>	<b>Exit Date (if applicable)</b>	<b>Location of Transaction</b>	<b>Counterparty Name</b>	<b>Broker Name (if applicable)</b>

This Form Must Be Submitted Online OR  
Postmarked and Mailed No Later Than  
JANUARY 16, 2023.

**TABLE I-B – PURCHASE(S) AND SALE(S) OF SWAPS WITH A VARIABLE NOTIONAL VALUE DURING THE CLASS PERIOD**

For each purchase or sale of a swap whose notional value fluctuated during the contract period, provide the following information for each interest payment for each transaction. **If necessary, please add additional columns to reflect all interest payments associated with the transaction. For example, if there were ten interest payments for a particular transaction, list the dates of all ten interest payments, the notional value (in AUD) on which each interest payment was calculated, and the amount of each interest payment:**

Swap Transaction Type	Swap Trade Date (mm/dd/yyyy)	Date of Interest Payment (mm/dd/yyyy)	Amount of Interest Payment (in AUD)	Notional Value (in AUD) for Interest Payment	Reference Interest Rate and Tenor	Location of Transaction	Counterparty Name	Broker Name (if applicable)



This Form Must Be Submitted Online OR  
Postmarked and Mailed No Later Than  
JANUARY 16, 2023.

**TABLE II – PURCHASE(S) AND SALE(S) OF FX FORWARDS AND FX SWAPS DURING THE CLASS PERIOD**

For a purchase or sale of a foreign exchange (“FX”) forward or FX swap, provide the following information for each transaction:

<b>Transaction Type (e.g., FX forward, FX swap)</b>	<b>Trade Date</b>	<b>Notional Value (in AUD)</b>	<b>Date Position Opened (mm/dd/yyyy)</b>	<b>Date Position Closed (mm/dd/yyyy)</b>	<b>Notional Amount of Corresponding Currency</b>	<b>Day-Count Convention</b>	<b>Location of Transaction</b>	<b>Counterparty Name</b>	<b>Broker Name (if applicable)</b>

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JANUARY 16, 2023.

**TABLE III – PURCHASE(S) AND SALE(S) OF 90-Day Bank Accepted Bill (“BAB”) or Australian Dollar Futures DURING THE CLASS PERIOD**

For a purchase or sale of a BAB futures or Australian Dollar futures contract, provide the following information for each transaction:

<b>Open/Close Transaction Type</b>	<b>Number of Contracts Traded</b>	<b>Futures Identifier or Expiry Month</b>	<b>Date Position Opened (mm/dd/yyyy)</b>	<b>Date Position Closed (mm/dd/yyyy)</b>	<b>Number of Contracts Held Before Class Period</b>	<b>Number of Contracts Held After Class Period</b>

For more information, call the Settlement Administrator at 1-877-308-3241 (or 1-414-961-6544 International), or visit [www.bbswsettlement.com](http://www.bbswsettlement.com)

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JANUARY 16, 2023.

**TABLE IV – PURCHASE(S) AND SALE(S) OF Options on 90-Day Bank Accepted Bill (“BAB”) or Australian Dollar Futures DURING THE CLASS PERIOD**

<b>Open/Close Transaction Type</b>	<b>Call (C) or Put (P)</b>	<b>Number of Options Traded</b>	<b>Contract Code</b>	<b>Date Position Opened (mm/dd/yyyy)</b>	<b>Date Position Closed (mm/dd/yyyy)</b>	<b>Contract Month/Year</b>	<b>Strike Price</b>

This Form Must Be Submitted Online OR  
Postmarked and Mailed No Later Than  
JANUARY 16, 2023.

If you have any additional BBSW-Based Derivatives transactions that you believe do not fit in any of the above categories, please list below and supply supporting documentation:

---

It is important that you accurately disclose all transactions in BBSW-Based Derivatives during the Class Period. Plaintiffs' Counsel and the Settlement Administrator reserve the right to seek further information from you regarding your Proof of Claim and Release.

**V. CLAIMANT'S CERTIFICATION & SIGNATURE**

**SECTION A: CERTIFICATION**

**BY SIGNING AND SUBMITTING THIS CLAIM FORM, CLAIMANT OR CLAIMANT'S AUTHORIZED REPRESENTATIVE CERTIFIES ON CLAIMANT'S BEHALF AS FOLLOWS:**

1. I (we) have read the Notice and Claim Form, including the descriptions of the Release and Covenant Not to Sue provided for in the Settlement Agreements;
2. I (we) am (are) a Class Member and am (are) not one of the individuals or entities excluded from the Settlement Class;
3. I (we) have not submitted a Request for Exclusion;
4. I (we) have made the transactions submitted with this Claim Form for myself (ourselves) and not as agents of another, and have not assigned my (our) Released Claims to another;
5. I (we) hereby warrant and represent that I (we) have not assigned or transferred or purported to assign or transfer, voluntarily or involuntarily, any matter released pursuant to the release or any other part or portion thereof;
6. I (we) have not submitted any other claim in this Action covering the same transactions and know of no other person having done so on his/her/its/their behalf;
7. I (we) hereby consent to the disclosure of, waive any protections provided by any applicable bank secrecy or data privacy laws (whether foreign or domestic), or any similar confidentiality protections with respect to, and instruct Settling Defendants or any authorized third party to disclose my (our) information and transaction data relating to my (our) trades for use in the claims administration process;
8. I (we) submit to the jurisdiction of the Court with respect to my (our) claim and for purposes of enforcing the releases set forth in any Final Judgment that may be entered in the Action;
9. I (we) agree to furnish such additional information with respect to this Claim Form as the Settlement Administrator or the Court may require; and
10. I (we) acknowledge that I (we) will be bound by and subject to the terms of the Judgment that will be entered in the Action if the Settlement is approved.
11. I (we) certify that I am (we are) not subject to backup withholding under the provisions of Section 3406(a)(1)(C) of the Internal Revenue Code.

**SECTION B: SIGNATURE**

**PLEASE READ THE RELEASE, CONSENT TO DISCLOSURE AND CERTIFICATION, AND SIGN BELOW.**

I (we) acknowledge that, as of the Effective Date of the Settlement, pursuant to the terms set forth in the Settlement Agreement, and by operation of law and the Final Judgment, I (we) shall be deemed to release and forever discharge and shall be forever enjoined from prosecuting the Released Claims against the Released Parties (as defined in the Settlement Agreement and/or Final Judgment).

By signing and submitting this Claim Form, I (we) consent to the disclosure of information relating to my (our) transactions in BBSW-Based Derivatives during the Class Period, and waive any protections provided by any applicable bank secrecy or data privacy laws (whether foreign or domestic), or any similar confidentiality protections with respect to information and transaction data relating to my (our) trades, for use in the claims administration process.

If signing as an Authorized Representative on behalf of an entity, I (we) certify that I (we) have legal rights and authorization from the entity to file this Claim Form on the entity's behalf.

**UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE UNITED STATES OF AMERICA, I (WE) CERTIFY THAT ALL THE INFORMATION PROVIDED BY ME (US) ON THIS CLAIM FORM IS TRUE, CORRECT, AND COMPLETE AND THAT THE DATA SUBMITTED IN CONNECTION WITH THIS CLAIM FORM ARE TRUE AND CORRECT COPIES OF WHAT THEY PURPORT TO BE.**

\_\_\_\_\_  
Signature of Claimant (if Claimant is an individual filing on his or her own behalf)

Date: \_\_\_\_\_  
MM/DD/YY

\_\_\_\_\_  
Print Name of Claimant (if Claimant is an individual filing on his or her own behalf)

\_\_\_\_\_  
Authorized Representative Completing Claim Form (if any)

Date: \_\_\_\_\_  
MM/DD/YY

\_\_\_\_\_  
Print name of Authorized Representative Completing Claim Form (if any)

\_\_\_\_\_  
Capacity of Authorized Representative (if other than an individual (e.g., trustee, executor, administrator, custodian, or other nominee))

**REMINDER: YOUR CLAIM FORM AND REQUIRED DATA MUST BE SUBMITTED ONLINE BY 11:59 P.M. EASTERN TIME ON JANUARY 16, 2023 OR POSTMARKED AND MAILED NO LATER THAN JANUARY 16, 2023, TO:**

**BBSW Class Action Settlement  
c/o A.B. Data, Ltd.  
P.O. Box 173031  
Milwaukee, WI 53217**

**REDLINE OF REVISION TO  
PROOF OF CLAIM AND RELEASE**

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

RICHARD DENNIS, *et al.*, on behalf of themselves and all  
others similarly situated,

Plaintiffs,

v.

JPMORGAN CHASE & CO., *et al.*

Defendants.

Case No.: 1:16-cv-6496 (LAK)

**PROOF OF CLAIM AND  
RELEASE**

**I. INSTRUCTIONS**

1. If you transacted in, purchased, sold, held, traded, or otherwise had any interest in BBSW-Based Derivatives during the period from January 1, 2003, through August 16, 2016 (the “Class Period”), you may be eligible to receive a payment from the settlements reached between Representative Plaintiffs and JPMorgan Chase & Co. and JPMorgan Chase Bank, N.A. (collectively, “JPMorgan”), Westpac Banking Corporation (“Westpac”), Australia and New Zealand Banking Group Ltd. (“ANZ”), Commonwealth Bank of Australia (“CBA”), National Australia Bank Limited (“NAB”), Morgan Stanley and Morgan Stanley Australia Limited (collectively, “Morgan Stanley”), Credit Suisse AG and Credit Suisse Group AG (“Credit Suisse”), BNP Paribas, S.A. (“BNPP”), Deutsche Bank AG (“Deutsche Bank”), Royal Bank of Canada (“RBC”), The Royal Bank of Scotland plc (n/k/a NatWest Markets plc) (“RBS”), and UBS AG (“UBS”), (the “Settling Defendants”) totaling \$185,875,000 in the above-captioned case.

2. “BBSW-Based Derivatives” means any financial derivative instrument that is based or priced in whole or in part in any way on BBSW or in any way includes BBSW as a component of price (whether priced, benchmarked and/or settled by BBSW), entered into by a U.S. Person, or by a person from or through a location within the U.S., including, but not limited to: (i) Australian dollar foreign exchange (“FX”) derivatives, including Australian dollar FX forwards (also known as “outright forwards” or “outrights”), Australian dollar FX swaps (also known as “currency swaps”), Australian dollar currency options, Australian dollar futures contracts (such as the Chicago Mercantile Exchange (“CME”) Australian dollar futures contract) and options on such futures contracts; (ii) BBSW-based interest rate derivatives, including interest rate swaps, swaptions, forward rate agreements (“FRAs”), exchange-traded deliverable swap futures and options on those futures, 90-day bank accepted bill (“BAB”) futures and options on those futures, and other over-the-counter (“OTC”) contracts or publicly traded vehicles that reference BBSW; (iii) Australian dollar cross-currency swaps; and (iv) any other financial derivative instrument or transaction based in whole or in part on BBSW, or that in any way incorporates BBSW as a component of price, or is alleged by Representative Plaintiffs in this Action to be based in whole or in part on BBSW, or to in any way incorporate BBSW as a component of price. For the avoidance of doubt, BBSW-Based Derivatives do not include: (i) any BBSW-Based Deposits or Loans; or (ii) any Prime Bank Bills or Prime Bank eligible securities.

3. “BBSW” means the Bank Bill Swap Reference Rate.

4. Unless otherwise defined herein, all capitalized terms contained in this proof of claim and release (“Claim Form”) have the same meaning as in the accompanying **Notice of Proposed Class Action Settlements, November 1, 2022 Fairness Hearing Thereon, and Class Members’ Rights** (“Notice”) and the Settlement Agreements between Representative Plaintiffs and the respective Settling Defendants, which are available at [www.bbswsettlement.com](http://www.bbswsettlement.com) (the “Settlement Website”).

5. It is important that you read the Notice that accompanies this Claim Form. By signing and submitting this Claim Form, you will be certifying that you have read the Notice, including the terms of the Release and Covenant Not to Sue described in the Notice under the heading “What Am I Giving Up to Receive a Payment?” and provided for in the Settlement Agreement.

6. To be eligible to receive a payment from the Net Settlement Fund, you must submit a timely and valid Claim Form along with the required data and/or information described in Parts II through IV below. **To be considered**

For more information, call the Settlement Administrator at 1-877-308-3241 (or 1-414-961-6544 International), or visit [www.bbswsettlement.com](http://www.bbswsettlement.com)



This Form Must Be Submitted Online OR  
Postmarked and Mailed No Later Than  
JANUARY 16, 2023.

timely, your Claim Form must be submitted online at [www.bbswsettlement.com](http://www.bbswsettlement.com) by 11:59 p.m. Eastern Time on January 16, 2023 OR postmarked and mailed to the Settlement Administrator no later than January 16, 2023, to:

**BBSW Class Action Settlement**  
**c/o A.B. Data, Ltd.**  
**P.O. Box 173031**  
**Milwaukee, WI 53217**

Do not submit your claim to the Court.

If you are unable to submit the required data as described below in Parts II through IV, you should call the Settlement Administrator for further instructions.

7. As described in Part III below, you are required to submit additional information about your transactions in BBSW-Based Derivatives as part of your Claim Form to be submitted to the Settlement Administrator.

8. Your payment amount will be determined based on the Settlement Administrator's review of your Claim Form and calculated pursuant to the Distribution Plan that the Court approves. Submission of a Claim Form does not guarantee that you will receive a payment from the Settlement. For more information, please refer to the Notice and Distribution Plan available at the Settlement Website.

9. Separate Claim Forms should be submitted for each separate legal entity. Conversely, a single Claim Form should be submitted on behalf of only one legal entity.

10. If you have questions about submitting a Claim Form or need additional copies of the Claim Form or the Notice, you may contact the Settlement Administrator.

11. **NOTICE REGARDING ELECTRONIC FILES:** Certain claimants with large numbers of transactions may request, or may be requested by the Settlement Administrator, to submit information regarding their transactions in electronic files. All such claimants **MUST** also submit a manually signed paper Proof of Claim listing all of their transactions whether or not they also submit electronic copies. If you wish to submit your claim electronically, you must contact the Settlement Administrator at [info@bbswsettlement.com](mailto:info@bbswsettlement.com) or visit [www.BBSWSETTLEMENT.com](http://www.BBSWSETTLEMENT.com) to obtain the required file layout. No electronic files will be considered to have been properly submitted unless the Settlement Administrator issues to the claimant an email of receipt and acceptance of electronically submitted data. **Do not assume that your file has been received until you receive this email. If you do not receive such an email within 10 days of your submission, you should contact the Settlement Administrator's electronic filing department at [efiling@abdata.com](mailto:efiling@abdata.com) to inquire about your file and confirm it was received.**

The Settlement Administrator will use this information for all communications relevant to this Claim Form. If this information changes, please notify the Settlement Administrator in writing. If you are a trustee, executor, administrator, custodian, or other nominee and are completing and signing this Claim Form on behalf of the Claimant, you must attach documentation showing your authority to act on behalf of the Claimant.

Beneficial Owner's First Name	MI	Beneficial Owner's Last Name

<b>Co-Beneficial Owner's First Name</b>	<b>MI</b>	<b>Co-Beneficial Owner's Last Name</b>

[illegible][illegible][illegible][illegible]

City	State	ZIP Code/Postal Code

Province/Region (if outside U.S.)	

[illegible]

Claimant Tax ID (For most U.S. Claimants, this is their individual Social Security number, employer identification number, or taxpayer identification number. For non-U.S. Claimants, enter a comparable government-issued identification number.)

[illegible]

Telephone Number (home or cell)  -  -

Telephone Number (work)  -  -

[illegible]

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JANUARY 16, 2023.

### Section B – Authorized Representative Information

Name of the person you would like the Settlement Administrator to contact regarding this claim (if different from the Claimant name listed above)

First Name MI Last Name

Telephone Number (home or cell) Telephone Number (work)

Address 1 (street name and number)

Address 2 (apartment, unit, or box number)

City State ZIP Code/Postal Code

Province/Region (if outside U.S.)

Email Address (If you provide an email address, you authorize the Settlement Administrator to use it in providing you with information relevant to this claim.)

This Form Must Be Submitted Online OR  
Postmarked and Mailed No Later Than  
JANUARY 16, 2023.

### III. REQUIREMENTS FOR CLAIM SUBMISSION

#### 1. YOU MUST SUBMIT YOUR CLAIM FORM IN THE REQUIRED FORMAT

Claimants must electronically submit their Claim Forms online at [www.bbswsettlement.com](http://www.bbswsettlement.com) by **11:59 p.m. Eastern Time on January 16, 2023** OR mail the Claim Forms to the Settlement Administrator at BBSW Class Action Settlement, c/o A.B. Data, Ltd., P.O. Box 173031, Milwaukee, WI 53217 so they **are postmarked and mailed no later than January 16, 2023**. Claim Forms must be submitted in the format specified in this Claim Form or posted by the Settlement Administrator on the Settlement Website.

Along with your Claim Form, you are required to submit the details of your transactions in BBSW-Based Derivatives reflected in Part IV, below. A Data Template, including the information you must provide about your transactions in BBSW-Based Derivatives is below and also available at the Settlement Website. In addition, please provide any of the following types of supporting documentation that verifies the transaction information you provide:

- a. Transaction data from your bank, broker, or internal trade system;
- b. Bank confirmations by individual trade;
- c. Bank transaction reports or statements;
- d. Trading venue transaction reports or statements;
- e. Prime broker reports or statements;
- f. Custodian reports or statements;
- g. Daily or monthly account statements or position reports;
- h. Email confirmations from counterparty evidencing transactions;
- i. Bloomberg confirmations or communications evidencing transactions; and/or
- j. Other documents evidencing transactions in BBSW-Based Derivatives during the Class Period.

Please keep all data and documentation related to your eligible BBSW-Based Derivatives transactions. Having data and documentation may be important to substantiating your Claim Form.

**ACCURATE CLAIMS PROCESSING TAKES A SIGNIFICANT AMOUNT OF TIME.  
THANK YOU IN ADVANCE FOR YOUR PATIENCE.**

This Form Must Be Submitted Online OR  
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JANUARY 16, 2023.

#### IV. TABLE OF TRANSACTIONS IN BBSW-BASED DERIVATIVES

Complete this Part IV if and only if you entered into transactions in BBSW-Based Derivatives from January 1, 2003 through August 16, 2016. Do not include information regarding instruments other than BBSW-Based Derivatives and do not include transactions in BBSW-Based Derivatives in which you acquired the instrument as an agent for another individual or entity.

##### **List of Brokers or Nominees**

Please list all brokers or nominees at which you maintained accounts in which you traded or held BBSW-Based Derivatives.


##### **List of Account Names and Account Numbers**

Please provide a list of all account names and account numbers for each entity you listed in response above in which you traded or held BBSW-Based Derivatives.


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**TABLE I-A – PURCHASE(S) AND SALE(S) OF SWAPTIONS, FRAS, AND SWAPS WITH A CONSTANT NOTIONAL VALUE DURING THE CLASS PERIOD**

For each purchase or sale of a swaption, FRA, and/or swap with a notional value that remained constant during the contract period, provide the following information for each transaction.

<b>Transaction Type (e.g., swap, swaption, FRA)</b>	<b>Trade Date (mm/dd/yyyy)</b>	<b>Applicable Rate and Duration (Tenor)</b>	<b>Notional Value (in AUD) for Interest Payment</b>	<b>Frequency of Reset Dates</b>	<b>Exit Date (if applicable)</b>	<b>Location of Transaction</b>	<b>Counterparty Name</b>	<b>Broker Name (if applicable)</b>

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JANUARY 16, 2023.

**TABLE I-B – PURCHASE(S) AND SALE(S) OF SWAPS WITH A VARIABLE NOTIONAL VALUE DURING THE CLASS PERIOD**

For each purchase or sale of a swap whose notional value fluctuated during the contract period, provide the following information for each interest payment for each transaction. **If necessary, please add additional columns to reflect all interest payments associated with the transaction. For example, if there were ten interest payments for a particular transaction, list the dates of all ten interest payments, the notional value (in AUD) on which each interest payment was calculated, and the amount of each interest payment:**

Swap Transaction Type	Swap Trade Date (mm/dd/yyyy)	Date of Interest Payment (mm/dd/yyyy)	Amount of Interest Payment (in AUD)	Notional Value (in AUD) for Interest Payment	Reference Interest Rate and Tenor	Location of Transaction	Counterparty Name	Broker Name (if applicable)

This Form Must Be Submitted Online OR  
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**TABLE II – PURCHASE(S) AND SALE(S) OF FX FORWARDS AND FX SWAPS DURING THE CLASS PERIOD**

For a purchase or sale of a foreign exchange (“FX”) forward or FX swap, provide the following information for each transaction:

<b>Transaction Type (e.g., FX forward, FX swap)</b>	<b>Trade Date</b>	<b>Notional Value (in AUD)</b>	<b>Date Position Opened (mm/dd/yyyy)</b>	<b>Date Position Closed (mm/dd/yyyy)</b>	<b>Notional Amount of Corresponding Currency</b>	<b>Day-Count Convention</b>	<b>Location of Transaction</b>	<b>Counterparty Name</b>	<b>Broker Name (if applicable)</b>



This Form Must Be Submitted Online OR  
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**TABLE III – PURCHASE(S) AND SALE(S) OF 90-Day Bank Accepted Bill (“BAB”) or Australian Dollar Futures DURING THE CLASS PERIOD**

For a purchase or sale of a BAB futures contract, provide the following information for each transaction:

Open/Close Transaction Type	Number of Contracts Traded	Futures Identifier or Expiry Month	Date Position Opened (mm/dd/yyyy)	Date Position Closed (mm/dd/yyyy)	Number of Contracts Held Before Class Period	Number of Contracts Held After Class Period

**TABLE IV – PURCHASE(S) AND SALE(S) OF Options on 90-Day Bank Accepted Bill (“BAB”) or Australian Dollar Futures DURING THE CLASS PERIOD**

This Form Must Be Submitted Online OR  
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JANUARY 16, 2023.

<u>Open/Close Transaction Type</u>	<u>Call (C) or Put (P)</u>	<u>Number of Options Traded</u>	<u>Contract Code</u>	<u>Date Position Opened (mm/dd/yyyy)</u>	<u>Date Position Closed (mm/dd/yyyy)</u>	<u>Contract Month/Year</u>	<u>Strike Price</u>

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If you have any additional BBSW-Based Derivatives transactions that you believe do not fit in any of the above categories, please list below and supply supporting documentation:

---

It is important that you accurately disclose all transactions in BBSW-Based Derivatives during the Class Period. Plaintiffs' Counsel and the Settlement Administrator reserve the right to seek further information from you regarding your Proof of Claim and Release.

**V. CLAIMANT'S CERTIFICATION & SIGNATURE**

**SECTION A: CERTIFICATION**

**BY SIGNING AND SUBMITTING THIS CLAIM FORM, CLAIMANT OR CLAIMANT'S AUTHORIZED REPRESENTATIVE CERTIFIES ON CLAIMANT'S BEHALF AS FOLLOWS:**

1. I (we) have read the Notice and Claim Form, including the descriptions of the Release and Covenant Not to Sue provided for in the Settlement Agreements;
2. I (we) am (are) a Class Member and am (are) not one of the individuals or entities excluded from the Settlement Class;
3. I (we) have not submitted a Request for Exclusion;
4. I (we) have made the transactions submitted with this Claim Form for myself (ourselves) and not as agents of another, and have not assigned my (our) Released Claims to another;
5. I (we) hereby warrant and represent that I (we) have not assigned or transferred or purported to assign or transfer, voluntarily or involuntarily, any matter released pursuant to the release or any other part or portion thereof;
6. I (we) have not submitted any other claim in this Action covering the same transactions and know of no other person having done so on his/her/its/their behalf;
7. I (we) hereby consent to the disclosure of, waive any protections provided by any applicable bank secrecy or data privacy laws (whether foreign or domestic), or any similar confidentiality protections with respect to, and instruct Settling Defendants or any authorized third party to disclose my (our) information and transaction data relating to my (our) trades for use in the claims administration process;
8. I (we) submit to the jurisdiction of the Court with respect to my (our) claim and for purposes of enforcing the releases set forth in any Final Judgment that may be entered in the Action;
9. I (we) agree to furnish such additional information with respect to this Claim Form as the Settlement Administrator or the Court may require; and
10. I (we) acknowledge that I (we) will be bound by and subject to the terms of the Judgment that will be entered in the Action if the Settlement is approved.
11. I (we) certify that I am (we are) not subject to backup withholding under the provisions of Section 3406(a)(1)(C) of the Internal Revenue Code.

**SECTION B: SIGNATURE**

**PLEASE READ THE RELEASE, CONSENT TO DISCLOSURE AND CERTIFICATION, AND SIGN BELOW.**

I (we) acknowledge that, as of the Effective Date of the Settlement, pursuant to the terms set forth in the Settlement Agreement, and by operation of law and the Final Judgment, I (we) shall be deemed to release and forever discharge and shall be forever enjoined from prosecuting the Released Claims against the Released Parties (as defined in the Settlement Agreement and/or Final Judgment).

By signing and submitting this Claim Form, I (we) consent to the disclosure of information relating to my (our) transactions in BBSW-Based Derivatives during the Class Period, and waive any protections provided by any applicable bank secrecy or data privacy laws (whether foreign or domestic), or any similar confidentiality protections with respect to information and transaction data relating to my (our) trades, for use in the claims administration process.

If signing as an Authorized Representative on behalf of an entity, I (we) certify that I (we) have legal rights and authorization from the entity to file this Claim Form on the entity's behalf.

**UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE UNITED STATES OF AMERICA, I (WE) CERTIFY THAT ALL THE INFORMATION PROVIDED BY ME (US) ON THIS CLAIM FORM IS TRUE, CORRECT, AND COMPLETE AND THAT THE DATA SUBMITTED IN CONNECTION WITH THIS CLAIM FORM ARE TRUE AND CORRECT COPIES OF WHAT THEY PURPORT TO BE.**

\_\_\_\_\_  
Signature of Claimant (if Claimant is an individual filing on his or her own behalf)

Date: \_\_\_\_\_  
MM/DD/YY

\_\_\_\_\_  
Print Name of Claimant (if Claimant is an individual filing on his or her own behalf)

\_\_\_\_\_  
Authorized Representative Completing Claim Form (if any)

Date: \_\_\_\_\_  
MM/DD/YY

\_\_\_\_\_  
Print name of Authorized Representative Completing Claim Form (if any)

\_\_\_\_\_  
Capacity of Authorized Representative (if other than an individual (e.g., trustee, executor, administrator, custodian, or other nominee))

**REMINDER: YOUR CLAIM FORM AND REQUIRED DATA MUST BE SUBMITTED ONLINE BY 11:59 P.M. EASTERN TIME ON JANUARY 16, 2023 OR POSTMARKED AND MAILED NO LATER THAN JANUARY 16, 2023, TO:**

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