UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

IN RE MEXICAN GOVERNMENT BONDS ANTITRUST LITIGATION	Master Docket No. 18-cv-02830
THIS DOCUMENT RELATES TO: ALL ACTIONS	

PLAINTIFFS' MEMORANDUM IN SUPPORT OF MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENTS WITH BARCLAYS PLC, BARCLAYS BANK PLC, BARCLAYS CAPITAL INC., BARCLAYS CAPITAL SECURITIES LIMITED, BARCLAYS BANK MÉXICO, S.A., INSTITUCIÓN DE BANCA MÚLTIPLE, GRUPO FINANCIERO BARCLAYS MÉXICO, AND GRUPO FINANCIERO BARCLAYS MÉXICO, S.A. DE C.V. AND WITH JPMORGAN CHASE & CO., J.P. MORGAN BROKER-DEALER HOLDINGS INC., J.P. MORGAN SECURITIES LLC, JPMORGAN CHASE BANK, NATIONAL ASSOCIATION, BANCO J.P. MORGAN, S.A. INSTITUCIÓN DE BANCA MÚLTIPLE, J.P. MORGAN GRUPO FINANCIERO, AND J.P. MORGAN SECURITIES PLC

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INTRODUCTION

Plaintiffs Oklahoma Firefighters Pension & Retirement System, Electrical Workers Pension Fund Local 103, I.B.E.W., Manhattan and Bronx Surface Transit Operating Authority Pension Plan, Metropolitan Transportation Authority Defined Benefit Pension Plan Master Trust, Boston Retirement System, Southeastern Pennsylvania Transportation Authority Pension Plan, United Food and Commercial Workers Union and Participating Food Industry Employers Tri-State Pension Fund, and Government Employees' Retirement System of the Virgin Islands ("Plaintiffs") move under Rule 23 of the Federal Rules of Civil Procedure for preliminary approval of a $5,700,000 settlement with Defendants Barclays PLC, Barclays Bank PLC, Barclays Capital Inc., Barclays Capital Securities Limited, Barclays Bank México, S.A., Institución de Banca Múltiple, Grupo Financiero Barclays México, and Grupo Financiero Barclays México, S.A. de C.V. (collectively, "Barclays") and a $15,000,000 settlement with Defendants JPMorgan Chase & Co., J.P. Morgan Broker-Dealer Holdings Inc., J.P. Morgan Securities LLC, JPMorgan Chase Bank, National Association, Banco J.P. Morgan, S.A. Institución de Banca Múltiple, J.P. Morgan Grupo Financiero, and J.P. Morgan Securities PLC (collectively, "JPMorgan" and, with Barclays, the "Settling Defendants").[1]

These settlements with Barclays and JPMorgan (the "Settlements") are "ice breaker" settlements and may serve as catalysts for resolutions with other Defendants in this case. If approved, the Settlements will create a common fund totaling $20,700,000. The Settlements also provide for substantial cooperation to prosecute this Action, a feature that has been tremendously valuable given the Court's September 30, 2019 order granting Defendants' motion to dismiss

[1] Unless otherwise noted, capitalized terms used herein have the same meaning as defined in the Stipulation and Agreement of Settlement with Barclays dated March 27, 2020 (the "Barclays Settlement Agreement" or "Barclays Agreement") and the Stipulation and Agreement of Settlement with JPMorgan dated March 27, 2020 (the "JPMorgan Settlement Agreement" or "JPMorgan Agreement") attached as Exhibits 1 and 2 to the Declaration of Vincent Briganti, Esq. dated June 1, 2020 ("Briganti Decl."). Unless otherwise noted, internal citations and quotation marks are omitted and ECF citations are to the docket

Plaintiffs' complaint. Plaintiffs incorporated the cooperation produced by Settling Defendants into their Second Consolidated Amended Class Action Complaint ("SAC") in time to meet the Court-imposed filing deadline and before the Settlements were submitted for preliminary approval. Further, because of joint and several liability and the availability of treble damages under the antitrust laws, Plaintiffs may still recover from the remaining Defendants the full extent of damages caused by each Defendants' alleged misconduct.

As discussed below and in the accompanying Declaration of Vincent Briganti, the Settlements fully satisfy the requirements for preliminary approval. The Settlements are procedurally fair, as Plaintiffs and Plaintiffs' Lead Counsel, Lowey Dannenberg ("Lowey" or "Lead Counsel") are adequate representatives for the Settlement Class and the Settlements themselves resulted from hard-fought arm's length negotiations with Settling Defendants. The terms of the Settlements are substantively fair, obtaining for the Settlement Class an early recovery and mitigating some of the risks of the litigation while at the same time providing critical information to support Plaintiffs' prosecution of the Class's claims. The Court therefore should grant Plaintiffs' motion and enter the proposed order for each Settlement, which:

(a) preliminarily approves each Settlement, subject to later, final approval;

(b) conditionally certifies a Settlement Class with respect to the claims against Settling Defendants;

(c) appoints Plaintiffs as representatives of the Settlement Class;

(d) appoints Lowey as Class Counsel for the Settlement Class;

(e) appoints The Huntington National Bank ("Huntington") as Escrow Agent for purposes of the Settlement Funds;

(f) appoints A.B. Data, Ltd. ("A.B. Data") as the Settlement Administrator for the Settlements;

(g) approves the proposed forms of Notice to the Settlement Class of the Settlements (Briganti Decl. Exs. 4-6) and the proposed Notice plan (*id.*, Ex. 3);

(h) approves the Distribution Plan with respect to each Settlement (*id.*, Ex.7);

(i) sets a schedule leading to the Court's consideration of final approval of each Settlement, including: (i) the date, time, and place for a hearing to consider the fairness, reasonableness, and adequacy of each Settlement; (ii) the deadline for members of the Settlement Class to exclude themselves (*i.e.*, opt out) from each Settlement; (iii) the deadline for Class Counsel to submit a petition for attorneys' fees and reimbursement of expenses; and (iv) the deadline for Settlement Class Members to object to each Settlement and any of the related petitions; and

(j) stays all proceedings as to Settling Defendants except with respect to approval of the Settlements.

See [Proposed] Preliminary Approval Orders, filed herewith.

ARGUMENT

I. The Court should preliminarily approve the Settlements.

A. The preliminary approval standard.

There is a "strong judicial policy in favor of settlements, particularly in the class action context." *Wal-Mart Stores, Inc. v. Visa U.S.A., Inc.*, 396 F.3d 96, 116 (2d Cir. 2005) ("*Wal-Mart Stores*"). "[C]ourts encourage early settlement of class actions, when warranted, because early settlement allows class members to recover without unnecessary delay and allows the judicial system to focus resources elsewhere." *Beckman v. KeyBank, N.A.*, 293 F.R.D. 467, 474-75 (S.D.N.Y. 2013).

The Court may preliminarily approve and direct notice of the proposed Settlements to the Settlement Class if it is likely that the Court, after a hearing, will find that the Settlements satisfy FED. R. CIV. P. 23(e)(2) and the Settlement Class may be certified for the Settlements. FED. R. CIV. P. 23(e)(1); *see In re Payment Card Interchange Fee & Merch. Disc. Antitrust Litig.*, 330 F.R.D. 11, 29 (E.D.N.Y. 2019) ("*Payment Card*") (analyzing the amended Rule 23(e)(2) standards to be applied at preliminary approval). Rule 23(e)(2) sets out a number of factors to guide the Court's analysis of the Settlements, with the factors in Rule 23(e)(2)(A) and (B) focusing on procedural fairness, *i.e.*, the "negotiating process leading to settlement," and those in Rule 23(e)(2)(C) and (D) focusing on the substantive fairness of the Settlements. *See Payment Card*, 330 F.R.D. at 30 n.25 ; *In re Platinum &*

Palladium Commodities Litig., No. 10-cv-3617, 2014 WL 3500655, at *13 (S.D.N.Y. July 15, 2014) ("*Platinum*").

B. The Settlements are procedurally fair.

To approve a class action settlement, Rule 23 requires the Court to find that, "the class representatives and class counsel have adequately represented the class [and] the proposal was negotiated at arm's length[.]" FED. R. CIV. P. 23(e)(2)(A)-(B).

1. *The Released Claims have been and are adequately represented.*

The "essential question in determining whether the Settlement complies with the adequate representation doctrine is whether the interests that were served by the Settlement were compatible with" those of all the settlement class members. *Wal-Mart*, 396 F.3d at 110. "Adequate representation of a particular claim is established mainly by showing an alignment of interests between class members, not by proving vigorous pursuit of that claim." *Id.* at 106-07.

Plaintiffs' interests are well aligned with those of the Settlement Class. Plaintiffs purchased Mexican Government Bonds during the Class Period. As Defendants' alleged manipulation impacted the entire market for Mexican Government Bonds and the prices of Mexican Government Bond Transactions, Plaintiffs were injured in the same way as other market participants. *See Wal-Mart*, 396 F.3d at 110-11 (class representatives are adequate if their injuries encompass those of the class they seek to represent); *Payment Card*, 330 F.R.D. at 31 (finding "Defendants' imposition of 'supracompetitive interchange and merchant-discount fees on purchases using Visa- and/or Mastercard-Branded cards, and anti-steering and other restraints'" similarly injured class representatives and absent class members).

Courts evaluating adequacy of representation also consider the adequacy of plaintiff's counsel. *Payment Card*, 330 F.R.D. at 30 (considering whether "plaintiff's attorneys are qualified, experienced and able to conduct the litigation."). Here, Lowey serves as Plaintiffs' Lead Counsel

and has led the prosecution of this action. Its extensive class action, antitrust, and trial experience presents strong evidence that the Settlements are procedurally fair. *See In re Currency Conversion Fee Antitrust Litig.*, 263 F.R.D. 110, 122 (S.D.N.Y. 2009) (noting the "extensive" experience of counsel in granting final approval of settlement); *see also Shapiro v. JPMorgan Chase & Co.*, No. 11 Civ. 8331 (CM) (MHD), 2014 WL 1224666, at *2 (S.D.N.Y. Mar. 24, 2014) (giving "great weight" to experienced class counsel's opinion that the settlement was fair); Briganti Decl. Ex. 8 (firm resume). Further, Plaintiffs' additional counsel include firms with extensive experience in complex class actions, and their direct assistance in prosecuting these claims with Lowey reinforces the adequacy of Plaintiffs' counsel in this case.

2. *The Settlements are the product of arm's length negotiations.*

There is a presumption of procedural fairness where a settlement is "the product of arm's length negotiations between experienced and able counsel on all sides." *In re Air Cargo Shipping Servs. Antitrust Litig.,* No. 06-md-1775 (JG)(VVP), 2009 WL 3077396, at *7 (E.D.N.Y. Sept. 25, 2009); *see also In re Austrian and German Bank Holocaust Litig.*, 80 F. Supp. 2d 164, 173-74 (S.D.N.Y. 2000), *aff'd sub nom. D'Amato v. Deutsche Bank*, 236 F.3d 78 (2d Cir. 2001) (same). That presumption applies here where the Settlements were negotiated by knowledgeable counsel with a deep understanding of the risks of the case and benefits of the Settlements.

Lowey was well informed about the strengths and weaknesses of the claims against Settling Defendants. During negotiations with Settling Defendants, Lowey had the benefit of its investigations into the structure and workings of the Mexican Government Bond market. Briganti Decl. ¶ 25. Lowey also benefited from the extensive arguments Defendants presented in their motion to dismiss Plaintiffs' Consolidated Amended Complaint ("CAC") and the Court's analysis in granting Defendants' motion. *Id.* ¶ 26. In pertinent part, the Court held that Plaintiffs failed to allege particular facts "that would allow the Court to infer the participation of the individual

Defendants — for example, *allegations of specific conduct by specific defendants*, or allegations that because of market makers' role, privileges, and concomitant obligations in the MGB market, only they and their corporate affiliates could have plausibly engineered the alleged conspiracy." ECF No. 158 at 15-16 ("*MGB I*") (emphasis added); Briganti Decl. ¶ 26. During the course of settlement negotiations and prior to the execution of the final Settlement Agreements in March 2020, Lowey received and analyzed cooperation material from Settling Defendants, including two proffers from Barclays, three proffers from JPMorgan, and the production of thousands of pages of documents. Briganti Decl. ¶ 27. This cooperation material provided details about specific conduct or communications by Defendants related to Plaintiffs' allegations of manipulation of Mexican Government Bonds. *Id.* Lowey concluded that Settling Defendants' cooperation enabled Plaintiffs to cure the pleading deficiencies identified by the Court in *MGB I*. *Id.* ¶ 30.

For example, the Court noted in *MGB I* that the news reports cited in the CAC concerning COFECE's investigation of the MGB market did not plausibly connect specific Defendants to the alleged conspiracy because the reports "state nothing about wrongdoing *on behalf of Defendants here*." ECF No. 158 at 17. Settling Defendants agreed to promptly provide Plaintiffs with crucial details about COFECE's investigation, including: (1) the fact that COFECE had moved beyond the investigation stage and had proceeded to issue a Statement of Objections against seven Defendants for engaging in anticompetitive conduct in the MGB market; and (2) copies of the Statement of Objections issued to Settling Defendants. Settling Defendants further agreed to provide Plaintiffs with chatroom transcripts that purportedly illustrated communications between traders related to Mexican Government Bonds while also implicating an additional Defendant in the alleged conspiracy. *Id.* ¶ 28. Settling Defendants also provided important, non-public information that enabled Plaintiffs to allege detailed jurisdictional allegations regarding their Mexican Government Bond Transactions. For example, Settling Defendants each consulted employees at their respective

Mexican Government Bond trading desks to walk through the trade pricing and execution process that occurs each time a customer in the United States executes a Mexican Government Bond trade. *Id.* ¶ 29. After reaching an agreement in principle to settle but prior to executing the Settlement Agreements, Plaintiffs filed their second amended complaint (using Settling Defendants' cooperation material) that, in Plaintiffs' view, cures the deficiencies identified by the Court and bolsters the factual allegations with respect to issues the Court had not reached, such as personal jurisdiction. *Id.* ¶ 30.

Settling Defendants were also well-represented in negotiating these Settlements. Barclays and JPMorgan received counsel from two of the leading law firms in the United States. Their attorneys have decades of experience and are some of the leading defense practitioners in commercial, antitrust, securities, CEA, and class action litigation cases. *Id.* ¶ 32.

The process leading up to the Settlements fully supports preliminary approval. *See id.* ¶¶ 17-24. The Settlement with Barclays is the result of arm's length negotiations over a period of six months, with discussions beginning in September 2019. These discussions, which included proffers and the production of cooperation materials, proved to be successful and culminated with the execution of a settlement agreement in March 2020. *Id.* The Settlement with JPMorgan similarly is the result of arm's length negotiations that began March 2019 and lasted about 1 year. Following a series of meetings, exchanges of views on the litigation, proffers, and the production of cooperation material, Plaintiffs and JPMorgan reached an agreement and executed a settlement agreement in March 2020. *Id.*

Given Lowey's and additional plaintiffs' counsel's considerable prior experience litigating complex antitrust class actions (among others), their knowledge of the strengths and weaknesses of Plaintiffs' claims, their assessment of the Settlement Class's likely recovery following trial and appeal,

and their experience negotiating with Settling Defendants, the Settlements are entitled to a presumption of procedural fairness.

C. The Settlements are substantively fair.

To assess the Settlements' substantive fairness, the Court considers whether, "the relief provided for the class is adequate," and account for the following factors: "(i) the costs, risks, and delay of trial and appeal; (ii) the effectiveness of any proposed method of distributing relief to the class, including the method of processing class-member claims; (iii) the terms of any proposed award of attorneys' fees, including timing of payment; and (iv) any agreement required to be identified under Rule 23(e)(3)." FED. R. CIV. P. 23(e)(2)(C). The Court is also required to confirm that the Settlements "treat[ ] class members equitably relative to each other." FED. R. CIV. P. 23(e)(2)(D).

Courts in this Circuit have long considered the nine *Grinnell* factors in deciding whether a settlement is substantively fair, reasonable, and adequate:

> (1) the complexity, expense and likely duration of the litigation; (2) the reaction of the class to the settlement; (3) the stage of the proceedings and the amount of discovery completed; (4) the risks of establishing liability; (5) the risks of establishing damages; (6) the risks of maintaining the class action through the trial; (7) the ability of the defendants to withstand a greater judgment; (8) the range of reasonableness of the settlement fund in light of the best possible recovery; and (9) the range of reasonableness of the settlement fund to a possible recovery in light of all the attendant risks of litigation.

City of Detroit v. Grinnell Corp., 495 F.2d 448, 463 (2d Cir. 1974) ("*Grinnell*"), *abrogated on other grounds by Goldberger v. Integrated Res., Inc.*, 209 F.3d 43 (2d Cir. 2000). The amended Rule 23(e)(2) factors are intended to be complementary to the *Grinnell* factors. *See Payment Card*, 330 F.R.D. at 29 ("Indeed, there is significant overlap between the *Grinnell* factors and the Rule 23(e)(2)(C-D) factors . . . ."); FED. R. CIV. P. 23 committee notes 2018 amendment (stating Rule 23 now focuses on the "core concerns of procedure and substance" to be considered when deciding whether to finally approve a settlement). Here, the factors set forth in Rule 23(e) and *Grinnell* weigh heavily in favor of final

approval being entered after notice is given to the Settlement Class and the fairness hearing is held, and certainly support preliminary approval.

1. *The costs, risks, and delay of trial and appeal favor the Settlements.*

To determine whether a settlement provides adequate relief to the class, the Court must evaluate "the costs, risks, and delay of trial and appeal," FED. R. CIV. P. 23(e)(2)(C)(i), "to forecast the likely range of possible classwide recoveries and the likelihood of success in obtaining such results." *Payment Card*, 330 F.R.D. at 36. Satisfying this factor necessarily "implicates several *Grinnell* factors, including: (i) the complexity, expense, and likely duration of the litigation; (ii) the risks of establishing liability; (iii) the risks of establishing damages; and (iv) the risks of maintaining the class through the trial." *Id.* Therefore, it is appropriate to address Rule 23(e)(2)(C)(i) in conjunction with these *Grinnell* factors.

The factual and legal issues in this action are complex and expensive to litigate. To start, antitrust cases are inherently complicated and risky. *In re GSE Bonds Antitrust Litig.*, 414 F. Supp. 3d 686, 693 (S.D.N.Y. 2019) ("Numerous federal courts have recognized that [f]ederal antitrust cases are complicated, lengthy, and bitterly fought as well as costly"). That Defendants prevailed in their motion to dismiss Plaintiffs' CAC highlights the risk of prosecuting Plaintiffs' antitrust claims.

The number of defendants, nature of the financial products and markets involved, and the time over which the alleged misconduct occurred factor into the complexity and risk of this case. *Id.*; *see In re Currency Conversion Fee*, 263 F.R.D. at 123 ("the complexity of Plaintiffs' claims *ipso facto* creates uncertainty"). This action will require the analysis of financial products, creation of sophisticated damages models, and the review of years' worth of documents and data. As the results of government investigations into the Mexican Government Bond market have yet to be publicly disclosed, Plaintiffs will develop their own evidence to prosecute this action. Relevant transactional data and documents, including chat room transcripts involving industry jargon, will have to be

deciphered and placed into context, and Plaintiffs will need to prove the meaning and significance to their claims of instant messages, trading patterns, and other facts.

Based on their experience in similar antitrust cases, Lowey anticipates discovery will be lengthy and costly. As is always true in cases involving complex financial markets, the duration of the case depends in significant part on the time that the non-settling Defendants require to produce their documents, the time required to review Defendants' and non-party documents, and the time required to use those documents to depose witnesses, conduct expert analyses, and otherwise prepare for trial. Plaintiffs have retained experts to provide econometric and industry analysis and industry insiders to educate them about the Mexican Government Bond market, adding to the cost and duration of the case. *In re Facebook, Inc., IPO Sec. & Derivative Litig.*, 343 F. Supp. 3d 394, 410 (S.D.N.Y. 2018) (experts "tend[] to increase both the cost and duration of litigation").

Defendants will use discovery and analysis from their experts to demonstrate factual or legal flaws in Plaintiffs' claims. Any evidence presented to counter Plaintiffs' evidence of manipulation or collusion may create ambiguities and require the factfinder to make reasonable inferences. Thus, while Plaintiffs are confident in their ability to successfully prosecute this action, there are no guarantees of success in complex litigation. *See In re GSE Bonds*, 414 F. Supp. 3d at 694 ("Given that multiple remaining defendants contend that they can present a strong case against plaintiffs after discovery, there is no guarantee that plaintiffs will be able to prove liability.").

Plaintiffs also bear the risk of proving damages. Unlike the government, private civil plaintiffs have the burden to prove not only manipulative or anticompetitive impact but also actual damages. *Gottesman v. General Motors Corp.*, 436 F.2d 1205, 1210 (2d Cir. 1971). Even where regulators have secured a criminal guilty plea, civil juries have found no damages. *See, e.g.*, Special Verdict on Indirect Purchases, *In re TFT-LCD (Flat Panel) Antitrust Litig.*, No. M 07-1827 SI (N.D. Cal. Sept. 3, 2013), ECF No. 8562. "Indeed, the history of antitrust litigation is replete with cases in

which antitrust plaintiffs succeeded at trial on liability, but recovered no damages, or only negligible damages, at trial, or on appeal." *In re NASDAQ Mkt.-Makers Antitrust Litig.*, 187 F.R.D. 465, 476 (S.D.N.Y. 1998) ("*NASDAQ III*"). Plaintiffs' impact and damages theories would have been sharply disputed prior to and at trial, triggering a "battle of the experts." *See NASDAQ III*, 187 F.R.D. at 476. "In this 'battle of experts,' it is virtually impossible to predict with any certainty which testimony would be credited, and ultimately, which damages would be found to have been caused by actionable, rather than the myriad nonactionable factors . . . ." *In re Warner Commc'ns Sec. Litig.*, 618 F. Supp. 735, 744-45 (S.D.N.Y. 1985). This factor supports approval of the Settlements.

Finally, the risk of maintaining a class through trial is an important consideration in evaluating the fairness and adequacy of the Settlements. Though the risk of maintaining a class is present in every class action, this risk is particularly acute where Defendants are likely to challenge class certification, including by bringing an interlocutory appeal. *In re GSE Bonds*, 414 F. Supp. 3d at 694 (the risk of maintaining a class through trial "weighs in favor of settlement where it is likely that defendants would oppose class certification if the case were to be litigated").

Settling Defendants' monetary consideration alone, $20,700,000, is greater than the maximum potential damages for which Settling Defendants would have argued they could be liable had this case been certified and proceeded to trial, and Plaintiffs were able to prove liability on their part. The potential risks of the litigation support approval of the Settlements.

2. *The remaining* Grinnell *factors also support final approval of the Settlements.*

The *Grinnell* factors not expressly encompassed in Rule 23(e)(2)(c)(i) also guide the Court in assessing whether the relief provided to the class is adequate; they include: "(2) the reaction of the class to the settlement; (3) the stage of the proceedings and the amount of discovery completed; . . . (7) the ability of the defendants to withstand a greater judgment; (8) the range of reasonableness of the settlement fund in light of the best possible recovery; and (9) the range of reasonableness of the

settlement fund to a possible recovery in light of all the attendant risks of litigation." *Grinnell*, 495 F.2d at 463.

a. The reaction of the Settlement Class to the Settlements.

Consideration of this *Grinnell* factor is premature prior to the Settlement Class receiving notice of the Settlements. *See In re GSE Bonds*, 414 F. Supp. 3d at 699 n.1 (consideration of the reaction of the settlement class is generally premature at the preliminary approval stage). Nevertheless, Plaintiffs are sophisticated institutional investors with significant financial expertise and are fully capable of assessing the Settlements' benefits. Briganti Decl. ¶ 31. Their support is highly probative of the likely reaction of other Settlement Class Members.

b. The stage of the proceedings and the amount of discovery completed.

The Court may approve a settlement at any stage of litigation. *See In re AOL Time Warner, Inc. Sec. & ERISA Litig.*, MDL No. 1500, 02-civ-5575 (SWK), 2006 WL 903236, at *10 (S.D.N.Y. Apr. 6, 2006). The Court's primary task in examining the stage of litigation and the extent of discovery undertaken is to assess whether the settling parties "have engaged in sufficient investigation of the facts" to understand the strengths and weaknesses of their case, and whether the settlement is adequate given those risks. *Id.*

Lowey has conducted extensive factual and legal research and consulted experts to assess the merits of Plaintiffs' claims. *See* Briganti Decl. ¶ 25; *see also* ECF No. 163 (SAC) ¶¶ 429-63 (detailing some of Plaintiffs' economic analyses). Further, Plaintiffs have received substantial cooperation to assist them in further evaluating and prosecuting this action. Even if cooperation material had not been provided, approval of the Settlements would be warranted. Discovery is not required even at final approval of a settlement. *See Plummer v. Chemical Bank*, 668 F.2d 654, 658 (2d Cir. 1982); *see also In re AOL Time Warner, Inc.,* 2006 WL 903236, at *10 ("The relevant inquiry for this factor is whether the plaintiffs have obtained a sufficient understanding of the case to gauge the strengths and

weaknesses of their claims and the adequacy of the settlement"). At the time the Settlements were reached, Plaintiffs were well informed about the strengths and weaknesses of their case.

c. The ability of Settling Defendants to withstand greater judgment.

Settling Defendants can withstand a greater judgment than $20,700,000, but this *Grinnell* factor alone does not determine whether the Settlements are reasonable. *See In re Global Crossing Sec. & ERISA Litig.*, 225 F.R.D. 439, 460 (S.D.N.Y. 2004) ("[T]he fact that a defendant is able to pay more than it offers in settlement does not, standing alone, indicate that the settlement is unreasonable or inadequate"); *In re Tronox Inc.*, No. 14-cv-5495 (KBF), 2014 WL 5825308, at *6 (S.D.N.Y. Nov. 10, 2014) ("The law does not require a defendant to completely empty its pockets before a settlement may be approved—indeed, if it did, it is hard to imagine why a defendant would ever settle a case."). Further, cooperation "tends to offset the fact that they would be able to withstand a larger judgment." *In re Pressure Sensitive Labelstock Antitrust Litig.*, 584 F. Supp. 2d 697, 702 (M.D. Pa. 2008); *see also In re GSE Bonds Antitrust Litig.*, No. 19-cv-1704 (JSR), 2019 WL 6842332, at *3 (S.D.N.Y. Dec. 16, 2019) ("[Settling defendant] has provided some cooperation already, thus mitigating [its] ability to withstand a greater judgment to a minor degree").

d. The Settlements are reasonable in light of the risks and potential range of recovery.

For the Settlement Class, the Settlements represent a reasonable, favorable hedge against the risks of pursuing the claims against Settling Defendants to trial. It provides "the immediacy and certainty of a recovery, against the continuing risks of litigation." *See In re Marsh ERISA Litig.*, 265 F.R.D. 128, 139 (S.D.N.Y. 2010). The Settlements' terms are substantively fair and easily "fall[] within the range of possible approval." *In re NASDAQ Mkt.-Makers Antitrust Litig.*, 176 F.R.D. 99, 102 (S.D.N.Y. 1997) ("*NASDAQ II*").

If approved, these Settlements will provide $20,700,000 less any authorized fees, costs and expenses. Based on information currently available to Plaintiffs, Lead Counsel in consultation with

their experts have preliminarily estimated single (*i.e.*, non-trebled) class wide damages of $760,000,000, assuming Plaintiffs succeed on all triable issues. Briganti Decl. ¶ 35. The Barclays Settlement represents 33.5% of its proportionate share of the single damages estimate, and JPMorgan's Settlement represents 23.7% of its proportionate share of the single damages. *Id.*; *see*, *e.g.*, *Payment Card*, 330 F.R.D. at 49 (approving settlement in which the settlement amount represented "may be only several months of interchange fees"); *In re Currency Conversion Fee Antitrust Litig.*, No. 01-md-1409, 2006 WL 3247396, at *6 (S.D.N.Y. Nov. 8, 2006) (preliminarily approving settlement recovering approximately 10-15% of transaction fees collected by alleged price fixing conspiracy). Lowey successfully negotiated with counsel for Settling Defendants to provide that, if the Settlements are finally approved, none of the Settlement Amounts will revert to Settling Defendants regardless of how many Class Members submit proofs of claim. Briganti Decl. Ex. 1 §§ 3, 10; Ex. 2 §§ 3, 10. Because claim rates typically fall below 100%, the non-reversion terms of the Settlements will substantially enhance the recovery that Authorized Claimants will receive.

Under the Settlements, Settling Defendants have already provided cooperation to aid in the pursuit of the claims against the non-settling Defendants. *Id.*, Ex. 1 § 4; Ex. 2 § 4. Some of the cooperation has been incorporated into allegations of Plaintiffs' SAC. Settling Defendants have a continuing obligation to provide additional documents and information, and will also provide, among other things, reasonably available information necessary to authenticate or otherwise make usable at trial the cooperation materials that they produced. *Id.*, Ex. 1 § 4(F),(H); Ex. 2 § 4(F),(H).

In exchange, the Releasing Parties will release the Released Parties from claims that arise out of or relate in any way to the acts, facts, statements, or omissions that were or could have been alleged or asserted in this Action. *Id.*, Ex. 1 § 12; Ex. 2 § 12. The claims asserted against Settling Defendants in the Action will be dismissed with prejudice on the merits, and any other related claims will be barred by the Settlements' release.

The Settlements' consideration and cooperation are well within the range of that which may later be found to be fair, reasonable, and adequate at final approval. *NASDAQ II*, 176 F.R.D. at 102.

3. *The Distribution Plan provides an effective method for distributing relief, satisfying Rule 23(e)(2)(c)(ii).*

"To warrant approval, the plan of allocation must also meet the standards by which the settlement was scrutinized — namely, it must be fair and adequate." *Payment Card*, 330 F.R.D. at 40. In addition, "[a]n allocation formula need only have a reasonable, rational basis, particularly if recommended by experienced and competent class counsel." *Id.*

Lowey consulted with industry and economic consultants to develop the proposed Distribution Plan. *See* Briganti Decl. ¶ 37, Ex. 7. This method for distributing the Settlements has been preliminarily approved for use in an analogous case concerning the manipulation of bonds issued by U.S. government-sponsored enterprises. *See In re GSE Bonds*, 414 F. Supp. 3d at 694-95 (approving similar distribution plan for settlements resolving antitrust claims relating to Fannie Mae, Freddie Mac, Federal Farm Credit Banks and Federal Home Loan Banks-issued unsecured bonds). The Distribution Plan should be preliminarily approved here.

Under the Distribution Plan, the Net Settlement Funds will be allocated on a *pro rata* basis according to a duration-adjusted weighting of each Authorized Claimant's notional (or principal) trading volumes of Mexican Government Bonds.[2] The Distribution Plan allocates the Net Settlement Funds based on "Risk Number," which is a widely accepted measure of the sensitivity of a bond's price to changes in yield (bond prices move inversely with yields). Bonds of longer durations are impacted more by price moves and carry higher Risk Numbers. Mexican Government Bond Transactions will be placed into one of 31 categories based on the remaining years to maturity when purchased or sold, and each category has its own "Risk Number" and a preliminarily assigned

[2] In consultation with Lowey, the Settlement Administrator will implement a reasonable minimum payment threshold to ensure that administrative costs of issuing small payments do not deplete the Fund.

Multiplier based on the Risk Number. *See* Preliminary Multiplier Table, Briganti Decl. Ex. 7 Appendix A. To determine the duration-adjusted weighting of each Authorized Claimant's trading volume, the Settlement Administrator will multiply each Authorized Claimant's notional volume for each category by the relevant Multiplier and sum up the results.

The Preliminary Multiplier Table is provided for illustration purposes. A Multiplier Table will be posted to the Settlement Website at least thirty days prior to the objection and opt-out deadlines. Changes, if any, to the Multiplier Table based on newly available data or information will be posted promptly to the Settlement Website, and Settlement Class Members will be encouraged to check the website for updates.

4. *The requested attorneys' fees are limited to ensure that the Settlement Class receives adequate relief.*

Class Counsel will limit their attorneys' fee request to no more than 30% of the Settlement Funds ($6.21 million), which may be paid upon final approval. Briganti Decl., Ex. 1 § 5(E); Ex. 2 § 5(E). An attorneys' fees request of 30% is comparable to the fees awarded in other cases of similar size and complexity. *See In re Med. X-Ray Film Antitrust Litig.*, No. CV-93-5904, 1998 WL 661515, at *7 (E.D.N.Y. Aug. 7, 1998) (awarding one-third of approximately $40 million settlement fund as "well within the range accepted by courts in this circuit."); *In re DDAVP Direct Purchaser Antitrust Litig.*, No. 05-cv-2237, 2011 WL 12627961, at *4 (S.D.N.Y. Nov. 28, 2011) (awarding fee of 33 $^{1}/_{3}$% from $20.25 million antitrust class settlement). In addition to the request for attorneys' fees, Class Counsel will ask for an award from these Settlements for unreimbursed litigation costs and expenses. *See Meredith Corp. v. SESAC LLC*, 87 F. Supp. 3d 650, 671 (S.D.N.Y. 2015) (reasonably incurred expenses may be reimbursed form the settlement fund).

5. *There are no unidentified agreements that impact the adequacy of the relief for the Settlement Class.*

Rule 23(c)(3) requires that "[t]he parties seeking approval must file a statement identifying any agreement made in connection with the proposal." Here, all agreements that could potentially impact the Settlements have been disclosed in the Settlements.

The Settlements contain a structure and terms that are commonly used in class action settlements in this District. *See NASDAQ II*, 176 F.R.D. at 102; *see also* Briganti Decl. ¶ 34. This includes a supplemental agreement that provides each Settling Defendant a qualified right to terminate its respective Settlement Agreement under certain circumstances before final approval. Briganti Decl. Ex. 1 § 23; Ex. 2 § 23. This "blow" provision is common in class action settlements. *See, e.g.*, *In re Online DVD-Rental Antitrust Litig.*, 779 F.3d 934, 948 (9th Cir. 2015); *Erica P. John Fund, Inc. v. Halliburton Co.*, No. 02CV1152, 2018 WL 1942227, at *5 (N.D. Tex. Apr. 25, 2018).

6. *The Settlements treat the Settlement Class equitably and do not provide any preferences.*

The Settlements do not favor or disfavor any Class Members; nor do they discriminate against, create any limitations, or exclude from payments any persons or groups within the Settlement Class. *See NASDAQ II*, 176 F.R.D. at 102. The Distribution Plan provides for a *pro rata* distribution of the Net Settlement Funds among Authorized Claimants, a method this Court has already approved as fair, reasonable, and adequate. *See, e.g.*, *Payment Card*, 330 F.R.D. at 47 (finding that "*pro rata* distribution scheme is sufficiently equitable"). All Class Members would similarly release Settling Defendants for claims based on the same factual predicate of this Action.

Further, any potential inequity is avoided through the use of an adequate notice program that advises Settlement Class Members of their rights, including the impact of the releases. Where class members have received sufficient notice of the impact of the settlement, courts have enforced the bar on prosecuting released claims so long as they were based on the identical factual predicate and the class members were adequately represented. *See In re Gen. Am. Life Ins. Co. Sales Practices*

Litig., 357 F.3d 800 (8th Cir. 2004) (affirming injunction against prosecution of claim released by a related class action where adequate notice of the release was given, and the class was adequately represented); *Wal-Mart Stores*, 396 F.3d 96 at 112-13 (adopting the analysis of *In re Gen. Am. Life*); *Weinberger v. Kendrick*, 698 F.2d 61, 77 (2d Cir. 1982). Thus, should a Settlement Class Member wish not to be bound by the release, that Settlement Class Member may elect to opt out of the Settlements. The notice program will provide Settlement Class Members with information about opting out of the Settlements should they wish. But absent opting out, each Settlement Class Member would be bound by the release.

Because each Settlement's release and the Distribution Plan wholly avoid any improper preferences or discriminations, the Court should find that the Settlements satisfy this factor.

II. The Court should conditionally certify the Settlement Class for the purposes of the Settlements.

As described below, the Settlement Class meets the requirements of Rule 23(a) and Rule 23(b)(3) for preliminary and final approval. Accordingly, the Court should conditionally certify the Settlement Class as to the claims against Settling Defendants.[3]

A. The Settlement Class meets the Rule 23(a) requirements.

1. *Numerosity*

Rule 23(a) requires that the class be "so numerous that joinder of all class members is impracticable." FED. R. CIV. P. 23(a). Joinder need not be impossible, but "merely [] difficult or inconvenient, rendering use of a class action the most efficient method to resolve plaintiffs' claims." *In re Initial Pub. Offering Sec. Litig.*, 260 F.R.D. 81, 90 (S.D.N.Y. 2009) ("*IPO*"). "Sufficient numerosity can be presumed at a level of forty members or more." *Id.* There are at least hundreds, if not

[3] Settling Defendants consent to preliminary certification of the Settlement Class solely for the purposes of the Settlement and without prejudice to any position Settling Defendants may take with respect to class certification in any other action or in this action if the Settlement is terminated. Briganti Decl., Ex. 1 § 2; Ex. 2 § 2.

thousands, of geographically dispersed persons and entities within the Settlement Class definition. *See* Briganti Decl. ¶ 36. Joinder of all these individuals and entities would be impracticable.

2. *Commonality*

Commonality only requires the presence of a single question of law or fact common to the class capable of class-wide proof. *See Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 359 (2011) ("*Dukes*"); *see also* FED. R. CIV. P. 23(a)(2). In antitrust cases, "[t]he commonality requirement is likely met because plaintiffs allege the same economic injury stemming from the same antitrust violation -- a conspiracy to fix the price of [ ] bonds in the secondary market -- by the same defendants." *In re GSE Bonds*, 414 F. Supp. 3d at 700.

This case presents scores of common questions of law and fact, including personal and subject matter jurisdiction, the standards for an unlawful agreement, and multiple questions that Defendants raised in their motions to dismiss. For example:

1. Did Defendants and their co-conspirators engage in a combination or conspiracy to fix outcomes and rig Mexican Government Bond auctions?

2. Did Defendants conspire to sell Mexican Government Bonds purchased at auction to consumers at artificially higher prices and buy Mexican Government Bonds from consumers at artificially lower prices?

3. Did Defendants fix prices of Mexican Government Bonds available for sale to consumers by, for example, conspiring to quote wider fixed bid-ask spreads?

These and other common questions involve dozens of common sub-questions of law and fact that are also common to all Class Members. The Settlements easily satisfy Rule 23(a)(2).

3. *Typicality*

Rule 23(a)(3) requires that "the claims or defenses of the representative parties are typical of the claims or defenses of the class." FED. R. CIV. P. 23(a)(3). A proposed class action meets this standard when "each class member's claim arises from the same course of events[,] and each class member makes similar legal arguments to prove the defendant's liability." *In re Flag Telecom Holdings,*

Ltd. Sec. Litig., 574 F.3d 29, 35 (2d Cir. 2009). Here, Plaintiffs' and other Settlement Class Members' claims all arise from the same course of conduct involving Defendants' alleged manipulation of the market for Mexican Government Bonds and the prices of Mexican Government Bond Transactions. Further, this alleged manipulation impacts Plaintiffs and the Settlement Class in the same way, by causing the pricing of Mexican Government Bonds to be skewed. Plaintiffs' claims are typical of the Class Members' claims. *See, e.g.*, *In re GSE Bonds*, 414 F. Supp. 3d at 700-01 ("Courts have repeatedly found that typicality is met when plaintiffs allege an antitrust price-fixing conspiracy because Plaintiffs must prove a conspiracy, its effectuation, and damages therefrom--precisely what the absent class members must prove to recover.").

4. *Adequacy*

Rule 23(a)(4) requires that "the representative parties will fairly and adequately protect the interests of the class." FED. R. CIV. P. 23(a)(4); *Baffa v. Donaldson, Lufkin & Jenrette Secs. Corp.*, 222 F.3d 52, 60 (2d Cir. 2000).

As discussed above, Plaintiffs' interests are aligned with Class Members. *See* Part I.B.1 *supra*. Plaintiffs' claims arise out of the same "factual predicate"—the alleged manipulation of the market for Mexican Government Bonds and the prices of Mexican Government Bond Transactions—that injured all Settlement Class Members. Further, Plaintiffs share with the Settlement Class an overriding interest in obtaining the largest possible monetary recovery from Settling Defendants, an interest reflected in the $20,700,000 in total monetary compensation achieved in the Settlements. *See Global Crossing*, 225 F.R.D. at 453 ("There is no conflict between the class representatives and the other class members. All share the common goal of maximizing recovery."). The cooperation obtained in the Settlements furthers Plaintiffs' and the Settlement Class's common interest in prosecuting the claims against the non-settling Defendants. Settlement Class Members, including Plaintiffs, all share the same interest in overcoming adverse dispositive motions, developing a

substantial factual record, overcoming the ambiguities and competing explanations for Defendants' conduct, and establishing liability and compensable damages.

a. The Court should appoint Class Counsel under Rule 23(g)(1).

Rule 23(g)(1) provides that "a court that certifies a class must appoint class counsel." FED. R. CIV. P. 23(g)(1). Where, as here, only one application is made seeking appointment as class counsel, "the court may appoint that applicant only if the applicant is adequate under Rule 23(g)(1) and (4)." FED. R. CIV. P. 23(g)(2). As described above (*see* Part I.B.1 *supra*), Lowey is adequate and should be appointed as Class Counsel for the Settlement Class. Plaintiffs' additional counsel also support the appointment of Lowey as Class Counsel.

B. The proposed Settlement Class satisfies Rule 23(b)(3).

To satisfy Rule 23(b)(3), Plaintiffs must conditionally establish: (1) "that the questions of law or fact common to class members predominate over any questions affecting only individual members;" and (2) "that a class action is superior to other available methods for fairly and efficiently adjudicating the controversy." FED. R. CIV. P. 23(b)(3).

1. *Predominance*

Certification is proper under Rule 23(b)(3) where "a class action would achieve economies of time, effort, and expense, and promote uniformity of decision as to persons similarly situated, without sacrificing procedural fairness or bringing about other undesirable results." *Brown v. Kelly*, 609 F.3d 467, 483 (2d Cir. 2010). A plaintiff must show "that the issues in the class action that are subject to generalized proof, and thus applicable to the class as a whole . . . predominate over those issues that are subject only to individualized proof." *Id.* (ellipsis in original). "If the most substantial issues in controversy will be resolved by reliance primarily upon common proof, class certification will generally achieve the economies of litigation that Rule 23(b)(3) envisions." *In re Air Cargo*

Shipping Servs. Antitrust Litig., No. 06-md-1775 (JG)(VVP), 2014 WL 7882100, at *35 (E.D.N.Y. Oct. 15, 2014), *adopted,* 2015 WL 5093503 (E.D.N.Y. July 10, 2015).

"Predominance is a test readily met in certain cases alleging consumer or securities fraud or violations of the antitrust laws[,]" unlike mass tort cases in which the "individual stakes are high and disparities among class members are great." *Amchem Prods., Inc. v. Windsor*, 521 U.S. 591, 625 (1997); Wright and Miller, 7AA FED. PRAC. & PROC. CIV. § 1781 (3d ed. 2017) (noting that allegations of antitrust conspiracies generally establish predominance of common questions). Many antitrust claims are well suited for class treatment because liability focuses on the defendants' alleged unlawful actions, not the actions of individual plaintiffs. *Compare Amchem*, 521 U.S. at 624 *with Messner v. Northshore Univ. HealthSystem*, 669 F.3d 802, 815 (7th Cir. 2012). Additionally, the "predominance inquiry will sometimes be easier to satisfy in the settlement context." *In re Am. Int'l Grp. Secs. Litig.*, 689 F.3d 229, 240 (2d Cir. 2012). Unlike class certification for litigation purposes, a settlement class presents no management difficulties for the court as settlement, not trial, is proposed. *Amchem*, 521 U.S. at 620; *see also In re NASDAQ Mkt.-Makers Antitrust Litig.*, 169 F.R.D. 493, 517 (S.D.N.Y. 1996) ("*NASDAQ I*") (stating that the predominance test is met "unless it is clear that individual issues will overwhelm the common questions and render the class action valueless").

Here, if the claims against Settling Defendants were not settled, common questions would predominate. Plaintiffs and the Class Members would address the same questions regarding allegations of personal jurisdiction, conspiracy, unlawful manipulation of the Mexican Government Bond market and the prices of Mexican Government Bond Transactions, and the damages caused by such alleged manipulation. *See Cordes & Co. Fin. Servs., Inc. v. A.G. Edwards & Sons, Inc.*, 502 F.3d 91, 105 (2d Cir. 2007) ("allegations of the existence of a price-fixing conspiracy are susceptible to common proof"); *In re GSE Bonds*, 414 F. Supp. 3d at 701-02 ("whether a price-fixing conspiracy

exists is the central question in this case, outweighing any questions that might be particular to individual plaintiff"). The Settlement Class satisfies Rule 23(b)(3).

2. *Superiority*

Rule 23(b)(3)'s "superiority" requirement requires a plaintiff to show that a class action is superior to other methods for "fairly and efficiently adjudicating the controversy." FED. R. CIV. P. 23(b). The Court balances the advantages of a class action against alternative available methods of adjudication. *See* FED. R. CIV. P. 23(b)(3)(A)-(D) (listing four non-exclusive factors relevant to this determination). The superiority requirement is applied leniently in the settlement context because the Court "need not inquire whether the case, if tried, would present intractable management problems." *Amchem*, 521 U.S. at 620; *Am. Int'l Grp.*, 689 F.3d at 239.

Here, members of the Settlement Class are significant in number and geographically disbursed, making a "class action the superior method for the fair and efficient adjudication of the controversy." *See In re Currency Conversion Fee Antitrust Litig.*, 224 F.R.D. 555, 566 (S.D.N.Y. 2004).

III. The Court should appoint The Huntington National Bank as Escrow Agent.

Lowey has designated Huntington to serve as Escrow Agent, to which Settling Defendants have consented. Huntington currently serves as Escrow Agent for settlements in *In re GSE Bonds Antitrust Litig.*, No. 19-cv-1704 (JSR) (S.D.N.Y.). Huntington has agreed to provide its services as Escrow Agent at market rates.

IV. The Court should approve the Class Notice plan and forms of notice.

Due process and Rule 23 require that the class receive adequate notice of a class action settlement. *Wal-Mart Stores*, 396 F.3d at 114. The adequacy of a settlement notice is measured by reasonableness. *See Soberal-Perez v. Heckler*, 717 F.2d 36, 43 (2d Cir. 1983); *see also* FED. R. CIV. P. 23 (e)(1) ("The court must direct notice in a reasonable manner to all class members who would be bound by the proposal."); *Weigner v. City of New York*, 852 F.2d 646, 649 (2d Cir. 1988) (due process

does not require actual notice to every class member, as long as class counsel "acted reasonably in selecting means likely to inform persons affected").

Courts are afforded "considerable discretion" in fashioning class notice. *In re "Agent Orange" Prod. Liab. Litig.*, 818 F.2d 145, 168 (2d Cir. 1987). Rule 23(c)(2) requires only that Rule 23(b)(3) class members be given "the best notice practicable under the circumstances, including individual notice to all members who can be identified through reasonable effort." FED. R. CIV. P. 23(c)(2)(B). Notice must clearly state: (i) the nature of the action; (ii) the definition of the class certified; (iii) the class claims, issues, or defenses; (iv) that a class member may enter an appearance through an attorney if the member so desires; (v) that the court will exclude from the class any member who requests exclusion; (vi) the time and manner for requesting exclusion; and (vii) the binding effect of a class judgment on members under Rule 23(c)(3). *Id.* The proposed Notice plan comports with these requirements. *See* Briganti Decl., Exs. 3-6.[4]

The Supreme Court has consistently found that mailed notice satisfies the requirements of due process. *See, e.g.*, *Mullane v. Cent. Hanover Bank & Tr. Co.*, 339 U.S. 306, 319 (1950). The direct-mailing notice component of the notice program will involve sending the Mailed Notice (Briganti Decl. Ex. 4) and the Proof of Claim and Release form (*id.*, Ex. 6) via First-Class Mail, postage prepaid to potential Class Members. *See* Affidavit of Linda V. Young attached as Briganti Decl. Ex. 3. To reach potential Class Members, Plaintiffs intend to send Mailed Notice to Settling Defendants' counterparties and will request that the non-Settling Defendants provide the names and contact information for their Mexican Government Bond Transaction counterparties. *Id.*

[4] A.B. Data developed the Notice plan after being selected as the proposed Settlement Administrator following a multi-party request for proposal process. A.B. Data has experience in administering class action settlements involving non-standard securities in over-the-counter and exchange markets, including in *In re GSE Bonds Antitrust Litig.*, No. 19-cv-1704 (JSR) (S.D.N.Y) (bonds issued by Fannie Mae, Freddie Mac, Federal Farm Credit Banks and Federal Home Loan Banks). Plaintiffs ask the Court to appoint A.B. Data as the Settlement Administrator.

The Settlement Administrator also will publish the Publication Notice (Briganti Decl., Ex. 5) in various periodicals, industry publications, and on websites. *See* Briganti Decl. Ex. 3. Any Settlement Class Members that do not receive Notice via direct mail likely will receive Notice through the foregoing publications or word of mouth.

The Settlement Website, www.MGBAntitrustSettlement.com, will serve as an information source regarding the Settlements. Settlement Class Members can review and obtain: (i) a blank Proof of Claim and Release form for the Settlements; (ii) the full and summary notices; (iii) the proposed Distribution Plan; (iv) the Settlement Agreements with Settling Defendants; and (v) key pleadings and Court orders. The Settlement Administrator will also operate a toll-free telephone number to answer Settlement Class Members' questions and facilitate claims filing.

CONCLUSION

Plaintiffs respectfully request that the Court enter the accompanying proposed orders that among other things: (a) preliminarily approves each Settlement, subject to later, final approval; (b) conditionally certifies a Settlement Class on the claims against Settling Defendants; (c) appoints Plaintiffs as representatives of the Settlement Class; (d) appoints Lowey as Class Counsel for the Settlement Class; (e) appoints Huntington as Escrow Agent for purposes of the Settlement Funds; (f) appoints A.B. Data as the Settlement Administrator for the Settlements; (g) approves the proposed forms of Notice to the Settlement Class of the Settlements and the proposed Notice plan; (h) approves the Distribution Plan with respect to each Settlement; (i) sets a schedule leading to the Court's consideration of final approval of each Settlement; and (j) stays all proceedings as to Settling Defendants except with respect to approval of the Settlements.

Dated: June 1, 2020
White Plains, New York

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