

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE  
JUSTICE P. PERELL

)  
)

Thursday, THE <sup>15<sup>th</sup></sup> DAY OF  
August, 2019

B E T W E E N:

JOSEPH S. MANCINELLI, CARMEN PRINCIPATO, DOUGLAS SERROUL, LUIGI CARROZZI, MANUEL BASTOS and JACK OLIVEIRA in their capacity as THE TRUSTEES OF THE LABOURERS' PENSION FUND OF CENTRAL AND EASTERN CANADA, and CHRISTOPHER STAINES



Plaintiffs

- and -

ROYAL BANK OF CANADA, RBC CAPITAL MARKETS LLC, BANK OF AMERICA CORPORATION, BANK OF AMERICA, N.A., BANK OF AMERICA CANADA, BANK OF AMERICA NATIONAL ASSOCIATION, BANK OF MONTREAL, BMO FINANCIAL CORP., BMO HARRIS BANK N.A., BMO CAPITAL MARKETS LIMITED, THE BANK OF TOKYO MITSUBISHI UFJ LTD., BANK OF TOKYO-MITSUBISHI UFJ (CANADA), BARCLAYS BANK PLC, BARCLAYS CAPITAL INC., BARCLAYS CAPITAL CANADA INC., BNP PARIBAS GROUP, BNP PARIBAS NORTH AMERICA INC., BNP PARIBAS (CANADA), BNP PARIBAS, CITIGROUP, INC., CITIBANK, N.A., CITIBANK CANADA, CITIGROUP GLOBAL MARKETS CANADA INC., CREDIT SUISSE GROUP AG, CREDIT SUISSE SECURITIES (USA) LLC, CREDIT SUISSE AG, CREDIT SUISSE SECURITIES (CANADA), INC., DEUTSCHE BANK AG, THE GOLDMAN SACHS GROUP, INC., GOLDMAN, SACHS & CO., GOLDMAN SACHS CANADA INC., HSBC HOLDINGS PLC, HSBC BANK PLC, HSBC NORTH AMERICA HOLDINGS INC., HSBC BANK USA, N.A., HSBC BANK CANADA, JPMORGAN CHASE & CO., J.P. MORGAN BANK CANADA, J.P. MORGAN CANADA, JPMORGAN CHASE BANK NATIONAL ASSOCIATION, MORGAN STANLEY, MORGAN STANLEY CANADA LIMITED, ROYAL BANK OF SCOTLAND GROUP PLC, RBS SECURITIES, INC., ROYAL BANK OF SCOTLAND N.V., ROYAL BANK OF SCOTLAND PLC, SOCIÉTÉ GÉNÉRALE S.A., SOCIÉTÉ GÉNÉRALE (CANADA), SOCIÉTÉ GÉNÉRALE, STANDARD CHARTERED PLC, TORONTO DOMINION BANK, TD BANK, N.A., TD GROUP HOLDINGS, LLC, TD BANK USA, N.A., TD SECURITIES LIMITED, UBS AG, UBS SECURITIES LLC, AND UBS BANK (CANADA)

Defendants

**ORDER  
(AMENDMENTS TO SETTLEMENT ADMINISTRATION)**

**THIS MOTION**, made by the Plaintiff for an Order approving: (i) the implementation of a bulk filing process; (“**Bulk Filing**”); (ii) the extension of the claim deadline from August 19, 2019 to January 15, 2020; (iii) the removal of all documentation requirements for both Direct and Indirect Claimants (“**Documentation Requirements**”); and, (iv) the implementation of additional notice, was heard on this day at Osgoode Hall, 130 Queen Street West, Toronto, Ontario.

**ON READING** the materials filed and on hearing the submissions of Class Counsel and upon being advised that the Defendants do not oppose this order.

**ON BEING ADVISED** that the Defendants do not oppose this Order;

1. **THIS COURT ORDERS** that the claims filing deadline be and is hereby extended from August 19, 2019 to January 15, 2020.
2. **THIS COURT ORDERS** that the Amended Administration and Distribution Protocols, attached as **Schedule “A”** are approved.
3. **THIS COURT ORDERS** that the form and content of the Amended Short Form Notice of Settlement attached as **Schedule “B”** is approved.
4. **THIS COURT ORDERS** that the form and content of the Amended Long Form Notice of Settlement attached as **Schedule “C”** is approved.
5. **THIS COURT ORDERS** that the Second Plan of Dissemination for the purpose of publication and dissemination of the notices attached hereto as **Schedule “D”** is hereby approved.

6. **THIS COURT DECLARES** that the Claims Administrator shall proceed to implement Bulk Filing and remove the Documentation Requirements.

*Perell, J.*

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THE HONOURABLE JUSTICE P. PERELL

ENTERED AT / INSCRIT A TORONTO  
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# CANADIAN FX NATIONAL CLASS ACTION

## ADMINISTRATION PROTOCOL

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## GENERAL PRINCIPLES OF THE ADMINISTRATION

1. This protocol (the “**Administration Protocol**”) is intended to govern the claims process and administration developed to distribute the Net Proceeds recovered in the Canadian FX National Class Actions in accordance with the Distribution Protocol approved by the Courts.
2. Compensation will be paid to Class Members who file a valid Claim determined in accordance with the claims process established by this Administration Protocol.
3. Generally, the claims administration shall:
  - (a) establish a claims process including a website and electronic web-based systems and procedures for completing, filing, receiving and adjudicating Claims;
  - (b) employ secure, web-based systems with electronic registration and record keeping wherever possible;
  - (c) provide professional and timely support and assistance to Class Members applying for compensation;
  - (d) provide efficient and timely adjudication of all Claims made in accordance with industry standards;
  - (e) provide timely payment of all valid Claims;
  - (f) provide complete and timely reporting in respect of all aspects of the claims process;
  - (g) provide for an interest bearing trust account at a Canadian Schedule 1 bank in Canada to hold the Net Proceeds; and
  - (h) be bilingual in all respects.

## DEFINITIONS

4. For the purpose of this Administration Protocol the following definitions will also apply:
- (a) **"Canadian FX National Class Action"** means the actions commenced in the Ontario Superior Court of Justice bearing Court File No. CV-15-536174 and the Superior Court of Quebec bearing Court File No. 200-06-000189-152.
  - (b) **"Claim"** means the claim forms developed for the claims process that a Class Member must completed and submit by the Claims Filing Deadline.
  - (c) **"Claims Administrator"** means the Garden City Group, LLC and any employees of Garden City Group, LLC.
  - (d) **"Claims Filing Deadline"** means the date by which Claims must be submitted in order for Class Members to make a timely Claim.
  - (e) **"Class Counsel"** means Sotos LLP, Koskie Minsky LLP, Siskinds LLP, and Camp Fiorante Matthews Mogerman.
  - (f) **"Class Members"** means all Persons, except Excluded Persons, in Canada who, between January 1, 2003 and December 31, 2013, entered into an FX Instrument either directly or indirectly through an intermediary, and/or purchased or otherwise participated in an investment or equity fund, mutual fund, hedge fund, pension fund or any other investment vehicle that entered into an FX Instrument.
  - (g) **"Class Period"** means January 1, 2003 and December 31, 2013.
  - (h) **"Courts"** means the Ontario Superior Court of Justice and the Superior Court of Quebec.
  - (i) **"Distribution Protocol"** means the rules and plan for distributing the Net Proceeds as developed by Class Counsel and approved by the Courts.

- (j) **“Excluded Persons”** means each defendant in the Canadian FX National Class Action, their parent companies, subsidiaries, and affiliates; provided, however, that Investment Vehicles shall not be considered Excluded Persons.
- (k) **“FX”** means foreign exchange.
- (l) **“FX Exchange-Traded Instruments”** means any and all FX Instruments that were listed for trading through an exchange, including, but not limited to, FX futures contracts and options on FX futures contracts.
- (m) **“FX Instruments”** means all instruments traded in the FX Market, including FX spot transactions, outright forwards, FX swaps, FX options, FX futures contracts and options on FX futures contracts.
- (n) **“FX Market”** means the market for the exchange of currencies, FX Trading, transactions in FX Instruments and/or FX Exchange-Traded Instruments.
- (o) **“FX Trading”** means the trading or exchange of currencies or FX Instruments, regardless of the manner in which such trading occurs or is undertaken, or a decision to withhold bids and offers with respect to FX Instruments.
- (p) **“Investment Vehicles”** means any investment entity or pooled investment fund, including, but not limited to, mutual fund families, exchange-traded funds, and fund of funds, in which a Defendant has or may have a direct or indirect interest, or as to which its affiliates may act as an investment advisor, but of which a Defendant or its respective affiliates is not a majority owner or does not hold a majority beneficial interest.
- (q) **“Net Proceeds”** means the portion of the Proceeds remaining after the payments contemplated by the Settlement Agreements and Orders of the Courts.

- (r) **“Persons”** means an individual, corporation, partnership, limited partnership, limited liability company, association, joint stock company, estate, legal representative, trust, trustee, executor, beneficiary, unincorporated association, government or any political subdivision or agency thereof, and any other business or legal entity and their heirs, predecessors, successors, representatives, or assignees.
- (s) **“Proceeds”** means the proceeds of all approved settlements in the Canadian FX National Class Action.
- (t) **“Settlement Agreements”** means the settlement agreements as approved by the Courts in the Canadian FX National Class Action.

#### **THE CLAIMS ADMINISTRATOR’S DUTIES AND RESPONSIBILITIES**

- 5. The Claims Administrator shall administer the Distribution Protocol in accordance with the provisions of the Orders of the Courts, the Settlement Agreements and this Administration Protocol under the ongoing authority and supervision of the Courts.
- 6. The Claims Administrator’s duties and responsibilities shall include the following:
  - (a) providing notice(s) to the Class Members as may be required;
  - (b) receiving the defendants’ customer information, including names and addresses;
  - (c) developing, implementing and operating the claims process including a claims website;
  - (d) performing industry-standard verification procedures on claims made to ensure their validity;
  - (e) making timely decisions in respect of Claims received and notifying the Class Members of the decision promptly thereafter;



- (f) submitting required materials for appeals;
- (g) reporting the results of the claims process and the intended distributions for each claims category to Class Counsel in a timely fashion;
- (h) performing such recalculation of the distributions in those claims categories as may be required by Class Counsel or if ordered by the Courts;
- (i) maintaining the Claims information so as to permit Class Counsel to audit the administration at the discretion of Class Counsel or if ordered by the Courts;
- (j) arranging payment to Class Members in a timely fashion;
- (k) dedicating sufficient personnel to respond to Class Members inquiries in English or French, as the Class Member elects;
- (l) remitting the amounts payable to the Fonds d'aide aux recours collectifs;
- (m) arranging payments of Class Counsel fees and disbursements and administration expenses, as ordered by the Courts;
- (n) reporting to Class Counsel respecting Claims received and administered and administration expenses;
- (o) holding the Net Proceeds in an interest bearing trust account at a Canadian Schedule 1 bank in Canada and making all payments from the Net Proceeds from that account as authorized;
- (p) cash management and audit control;
- (q) preparing and submitting reports and records as directed by Class Counsel or the Courts; and,

- (r) fulfilling any obligation to report taxable income and make tax payments (including interest and penalties) due with respect to the income earned by the Net Proceeds.

## **THE CLAIMS PROCESS**

- 7. The Claims Administrator shall create and maintain a claims website for the purposes of providing Class Members with relevant information pertaining to the claims process.
- 8. Where one or more defendants have identified a Class Member and provided customer information about that Class Member, the Claims Administrator may use that customer information to provide notice to the Class Member.
- 9. Generally, the Claim shall require:
  - (a) information about the Class Member and the Class Member's FX Trading that will allow the Claims Administrator to verify that FX Trades were made and are properly categorized;
  - (b) such proof of FX Trading as are acceptable to the Claims Administrator upon request from the Claims Administrator. Class Members are not required to file transaction records unless and until the Claims Administrator chooses to audit said claim;
  - (c) disclosure as to whether the Class Member or any person or entity related to the Class Member has received compensation through other proceedings or settlements pertaining to FX trading, the documents and details of the compensation received, and the claims released;
  - (d) authorization to the Claims Administrator to contact the Class Member or its representative for clarification, information and/or to audit the Claim;

- (e) a declaration that the information submitted in the Claim is true and correct and that the FX Trades comprising the Claim have not been submitted for any other compensation claim; and,
- (f) such further and other information as the Claims Administrator may require to process Claims.

***Claims Filing Deadline***

- 10. The completed Claim together with the required supporting proof must be submitted to the Claims Administrator electronically no later than the Claims Filing Deadline.
- 11. Any Claim not submitted on or before the Claims Filing Deadline will be rejected by the Claims Administrator and such rejection shall not form the basis for any appeal.

***Claims Audit***

- 12. The Claims Administrator shall perform such checks and balances as are industry standard to ensure the validity of the Claims made and, in its sole discretion, may elect to audit any Claim. The Claims Administrator shall reject a Claim, in whole or in part, where, in the Claims Administrator's view, the Class Member has submitted insufficient information or false information or has otherwise engaged in fraudulent conduct.

***Deficiencies***

- 13. If the Claims Administrator finds that deficiencies exist in a Claim, the Claims Administrator shall forthwith notify the Class Member of the deficiencies. The Class Member will have sixty (60) days after being informed of a deficiency to correct the deficiencies to the satisfaction of the Claims Administrator (the "Deficiency Response Deadline").

***Claims Administrator's Decision***

14. In respect of each Claim, the Claims Administrator shall:
  - (a) determine whether the claimant is a Class Member;
  - (b) determine whether the Class Member has satisfied the Claims requirements;
  - (c) calculate the Class Member's compensation based on the Distribution Protocol; and,
  - (d) advise the Class Member of its approval or rejection of the Claim within ninety (90) days of the Claims Filing Deadline or the Deficiency Response deadline, whichever is later (the "**Decision Notice**").
15. Where the Claims Administrator has rejected or re-categorized all or part of the Claim, the Claims Administrator shall include in the Decision Notice its grounds for so doing.
16. The Claims Administrator's decision will be final and binding upon the Class Member, subject to the limited right of appeal afforded to the Class Members in paragraph 17.

***Appeal of the Claims Administrator's Decision***

17. Class Members may appeal the rejection or re-categorization of their Claim. Any such appeal must be electronically submitted within thirty (30) days of the date of the Decision Notice.
18. Appeals will be determined by a bilingual arbitrator appointed by the Courts.
19. The arbitrator shall apply the rules provided herein to any appeals. There shall be no right of appeal in respect of:
  - (a) Claims filed after the Claims Filing Deadline; and

- (b) Claims entitled to the fixed compensation of \$50 or less pursuant to paragraph 29 of the Distribution Protocol.
20. Appeals shall be on the basis of written submissions of the Class Member supported by any documentation provided to the Claims Administrator as part of an audit and any other material provided by the Class Member in support of the appeal. Notwithstanding the foregoing, the arbitrator, in his or her sole discretion, may request oral submissions to be made via teleconference or establish additional procedures to be followed during the appeal in cases where he or she determines that is warranted.
21. The arbitrator, in his or her sole discretion, may mediate the differences at any stage in the proceedings and, if mediation is unsuccessful, continue to arbitrate the appeal.
22. Costs of a successful appeal will be paid from the Net Proceeds. Costs of an unsuccessful appeal will be borne by the Class Member, subject to the discretion of the Claims Administrator.
23. The arbitrator's decision on the appeal is final and binding and shall not be subject to any further appeal or review whatsoever.

#### **THE CLAIMS DISTRIBUTION PROCESS**

24. As soon as practicable after all valid claims are processed, the Claims Administrator shall report to Class Counsel stating the particulars of the proposed distribution of the Net Proceeds.
25. Upon receipt of the Claims Administrator's report, Class Counsel shall forthwith take such steps as they determine may be required pursuant to the provisions of the Distribution Protocol to finalize compensation payments to Class Members including, if necessary, an application to the Courts.

26. Once all steps contemplated by paragraph 25 are complete, Class Counsel will instruct the Claims Administrator to make any recalculations of compensation which may be required and pay approved Claims.
27. The Claims Administrator shall make arrangements to pay approved Claims as expeditiously as possible following receipt of Class Counsel's instruction.

#### **CLASS COUNSEL**

28. Class Counsel shall oversee the claims process and provide advice and assistance to the Claims Administrator regarding this Administration Protocol, the Distribution Protocol and the claims process.
29. Class Counsel may, on notice to the Courts and in consultation with the Claims Administrator, modify provisions of this Administration Protocol, including any time limits or deadlines, during the claims process to enhance the efficacy of the claims process if they consider it is necessary and reasonable for the fair administration of the Distribution Protocol.

#### **CONFIDENTIALITY**

30. All information received from the Defendants or the Class Members is collected, used, and retained by the Claims Administrator pursuant to the *Personal Information Protection and Electronic Documents Act*, S.C. 2000, c. 5 for the purposes of administering their Claims.

# CANADIAN FX NATIONAL CLASS ACTION

## DISTRIBUTION PROTOCOL

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## DEFINITIONS

1. The following definitions apply for the purposes of this protocol (the “**Distribution Protocol**”):
  - (a) “**Canadian FX National Class Action**” means the actions commenced in the Ontario Superior Court of Justice bearing Court File No. CV-15-536174 and the Superior Court of Quebec bearing Court File No. 200-06-000189-152.
  - (b) “**Claim**” means the claim forms developed for the claims process that a Class Member must complete and submit by the Claims Filing Deadline.
  - (c) “**Claims Administrator**” means the Garden City Group, LLC and any employees of Garden City Group, LLC.
  - (d) “**Claims Filing Deadline**” means the date by which Claims must be submitted in order for Class Members to make a timely Claim.
  - (e) “**Class Counsel**” means Sotos LLP, Koskie Minsky LLP, Siskinds LLP, and Camp Fiorante Matthews Mogerman.
  - (f) “**Class Members**” means all Persons, except Excluded Persons, in Canada who, between January 1, 2003 and December 31, 2013, entered into an FX Instrument either directly or indirectly through an intermediary, and/or purchased or otherwise participated in an investment or equity fund, mutual fund, hedge fund, pension fund or any other investment vehicle that entered into an FX Instrument.
  - (g) “**Class Period**” means January 1, 2003 and December 31, 2013.
  - (h) “**Consulting Expert**” means the expert retained by Class Counsel to assist the Claims Administrator in the review and valuation of claim submissions.



- (i) **"Courts"** means the Ontario Superior Court of Justice and the Superior Court of Quebec.
- (j) **"Direct Claimant"** means a Person in Canada who between January 1, 2003 and December 31, 2013, entered into an FX Instrument directly with a financial institution, including but not limited to the Defendants. Direct Claimants include all Financial Customers and Non-Financial Customers that entered into an FX Trade with an FX Dealer. Investment Vehicles are excluded from the pool of Direct Claimants.
- (k) **"Direct Claims Fund"** means the fund containing that portion of the Net Proceeds allocated to Direct Claimants.
- (l) **"Eligible Participation Amount"** means the Settlement Transaction Volume adjusted by Relative Damage Factors that account for two transaction characteristics that affect damages: currency pair traded and trade size.
- (m) **"Excluded Persons"** means each defendant in the Canadian FX National Class Action, their parent companies, subsidiaries, and affiliates; provided, however, that Investment Vehicles shall not be considered Excluded Persons.
- (n) **"Financial Customer"** means financial institutions such as mutual funds, pension funds, hedge funds, currency funds, money market funds, leasing companies, insurance companies, financial subsidiaries of corporate firms, and central banks. Financial Customers also include smaller commercial and investment banks that do not participate as reporting dealers in the triennial survey of the Bank of Canada.
- (o) **"Funds"** means the Direct Claims Fund and the Indirect Claims Fund.
- (p) **"FX"** means foreign exchange.

- (q) **"FX Dealer"** means a financial institution that has received authorization from a relevant regulatory body to act as a dealer involved in FX Trading.
- (r) **"FX Exchange-Traded Instruments"** means any and all FX Instruments that were listed for trading through an exchange, including, but not limited to, FX futures contracts and options on FX futures contracts.
- (s) **"FX Instruments"** means all instruments traded in the FX Market, including FX spot transactions, outright forwards, FX swaps, FX options, FX futures contracts and options on FX futures contracts.
- (t) **"FX Market"** means the market for the exchange of currencies, FX Trading, transactions in FX Instruments and/or FX Exchange-Traded Instruments.
- (u) **"FX Trading"** and **"FX Trades"** means the trading or exchange of currencies or FX Instruments, regardless of the manner in which such trading occurs or is undertaken, or a decision to withhold bids and offers with respect to FX Instruments.
- (v) **"Indirect Claimant"** means a Person in Canada who between January 1, 2003 and December 31, 2013, entered into an FX Instrument indirectly through an intermediary and/or purchased or otherwise participated in an investment or equity fund, mutual fund, hedge fund, or any other investment vehicle that entered into an FX Instrument. Included as Indirect Claimants are Investment Vehicles.
- (w) **"Indirect Claims Fund"** means the fund containing that portion of the Net Proceeds allocated to Indirect Claimants.
- (x) **"Investment Vehicles"** means any investment entity or pooled investment fund, including, but not limited to, mutual fund families, exchange-traded funds, and fund of funds, in which a Defendant has or may have a direct or indirect interest, or as to which its affiliates may act as an investment advisor, but of which a Defendant or its respective affiliates is not a majority

owner or does not hold a majority beneficial interest. For the purposes of Indirect Claims, the definition of "Investment Vehicles" is not limited to those in which a Defendant has or may have a direct or indirect interest.

- (y) **"Net Proceeds"** means the portion of the Proceeds remaining after the payments contemplated by the Settlement Agreements and Orders of the Courts.
- (z) **"Non-Financial Customer"** means non-financial end-users such as corporations and non-financial government entities.
- (aa) **"Persons"** means an individual, corporation, partnership, limited partnership, limited liability company, association, joint stock company, estate, legal representative, trust, trustee, executor, beneficiary, unincorporated association, government or any political subdivision or agency thereof, and any other business or legal entity and their heirs, predecessors, successors, representatives, or assignees.
- (bb) **"Proceeds"** means the proceeds of all approved settlements in the Canadian FX National Class Action.
- (cc) **"Settlement Agreements"** means the settlement agreements as approved by the Courts in the Canadian FX National Class Action.
- (dd) **"Settlement Transaction Volume"** means the gross transaction volume in eligible instruments adjusted by Conversion Ratios that account for an instrument's sensitivity to the spot rate.
- (ee) **"U.S. Proceeding"** means the class action proceeding, in which certain Settling Defendants are named as parties, currently pending in the United States District Court for the Southern District of New York known as *In Re: Foreign Exchange Benchmark Rate Antitrust Litigation*, ECF Case No. 1:13-cv-07789-LGS.

## GENERAL PROVISIONS

2. The Net Proceeds shall be distributed in accordance with the rules established by this Distribution Protocol according to a claims-made process to compensate Class Members in the Canadian FX National Class Action.

3. The Claims Administrator will consider any compensation received by Class Members in other jurisdictions, including the U.S. Proceeding or private settlements, in respect of FX Trades.

## ALLOCATION OF NET PROCEEDS

4. The Net Proceeds shall be allocated to the following Funds:

Direct Claims Fund	80%
Indirect Claims Fund	20%

5. Class Members will be entitled to advance claims in the following claims categories:

- (a) Direct Claims; and
- (b) Indirect Claims.

6. Class Members may advance separate claims in respect of more than one claims category, provided those claims are in compliance with the rules applicable to each claims category. Class Members cannot advance a claim for the same FX Trades in different Funds. The claims process will be designed to assist Class Members to easily and efficiently advance their claims in all applicable claims categories.

7. Compensation payable for all valid claims received will be calculated by the Claims Administrator based on the rules for the applicable claims category and the Net Proceeds available in the applicable Fund.

8. The distribution in Quebec will be subject to the application of the *Regulation respecting the percentage withheld by the Fonds d'aide aux actions collectives*, C.Q.L.R. c. R-2.1, r. 2.

9. If there are more monies allocated to any Fund than is required to pay the maximum compensation to Class Members for all valid claims made against that Fund on the terms set out below, Class Counsel may apply such excess to proportionately increase the other Funds.

#### **DIRECT CLAIMS FUND AND DIRECT CLAIMANTS**

10. Direct Claims will be advanced by Class Members against the Direct Claims Fund.

11. A Direct Claimant is not required to document their eligible transaction volume unless and until the Claims Administrator chooses to audit said claim.

12. The Claims Administration will undertake the following steps to value a claim, with assistance from the Consulting Expert as necessary:

- (a) **Step #1:** Analyze transaction volume based on the information submitted by the Claimant;
- (b) **Step #2:** If any volumes submitted are rejected, send a deficiency notice and provide an opportunity to cure;
- (c) **Step #3:** Adjust the transaction volume to yield the Claimant's Settlement Transaction Volume;
- (d) **Step #4:** Adjust the Settlement Transaction Volume to yield the Eligible Participation Amount; and,
- (e) **Step #5:** Determine the damages calculation and the payment to the Claimant, having regard to any compensation received in other jurisdictions, including the U.S. Proceeding or private settlements.

**Conversion Ratios**

13. The conduct of the defendants at issue in the class action was aimed at affecting the FX spot price. Therefore, the impact on the various FX Instruments will be adjusted based on the exposure to spot prices.

14. The following Conversion Ratios will be will be applied to FX Instruments:

<b>Instrument</b>	<b>Conversion Ratio</b>
FX Spot Transactions	1.0
FX Forwards	1.0
FX Swaps	1.0 for FX forward risk component
OTC FX Options	0.2
FX Futures	1.0
Options on FX Futures	0.2

**Relative Damage Factors: Liquidity and Trade Size**

15. Adjustments for transaction characteristics are called “**Relative Damage Factors**” and include currency pair traded and trade size. The Claimant’s Settlement Transaction Volume, as adjusted by the Relative Damage Factors, results in the Claimant’s Eligible Participation Amount.

Liquidity: Currency Pair Traded

16. This Relative Damage Factor recognizes the effect of the liquidity of a currency pair on damage. All else being equal, trades in currency pairs with higher liquidity are likely damaged less per unit of Settlement Transaction Volume than trades in currency pairs with lower liquidity.

17. The following table of currency pairs were measured and grouped based on similar liquidity profiles:

<b>Most Liquid</b>	USDCAD, USDEUR, USDGBP, USDJPY, USDMXN, USDAUD, CADEUR, CADGBP, USDCHF, USDBRL
<b>Liquid</b>	CADJPY, USDSEK, CADSEK, CADAUD, EURGBP, USDNZD, USDNOK, EURJPY, EURAUD, CADCHF, EURSEK, USDZAR, EURNOK, USDKRW, EURCHF, USDTRY, JPYAUD, USDTWD, USDINR, USDRUB, USDPLN, EURPLN, EURDKK, EURHUF, EURTRY
<b>Illiquid</b>	All other currency pairs, except for Pegged.
<b>Pegged</b>	<p><b>No Separate Legal Tender (Hard Peg):</b> Ecuador, El Salvador, Marshall Islands, Micronesia, Palau, Panama, Timor-Leste, Zimbabwe, Kosovo, Montenegro, San Marino, Kiribati, Tuvalu</p> <p><b>Currency Board (Hard Peg):</b> Antigua &amp; Barbuda, Dominica, Grenada, St. Kitts and Nevis, St. Lucia, St. Vincent &amp; Grenadines, Djibouti, Hong Kong, Bosnia Herzegovina, Bulgaria, Brunei Darussalam</p> <p><b>Conventional Peg (Soft Peg):</b> Aruba, Bahamas, Bahrain, Barbados, Belize, Curacao &amp; Sint Maarten, Eritrea, Jordan, Oman, Qatar, Saudi Arabia, South Sudan, Turkmenistan, United Arab Emirates, Venezuela, Benin, Burkina Faso, Cameroon, Cape Verde, Central African Rep., Chad, Congo, Comoros, Cote d'Ivoire, Equatorial Guinea, Gabon, Guinea-Bissau, Mali, Niger, Senegal, Sao Tome &amp; Principe, Togo, Butan, Fiji, Kuwait, Lesotho, Libya, Morocco, Namimbia, Nepal, Samoa, Solomon Islands, Swaziland, Tonga</p> <p><b>Stabilized Agreement (Soft Peg):</b> Cambodia, Gyuana, Honduras, Iraq, Lebanon, Maldives, Suriname, Macedonia, Angola, Azerbaijan, Bolivia, Costa Rica, Georgia, Laos, Tajikistan, Trinidad &amp; Tobago, Ukraine, Vietnam, Yemen</p> <p><b>Crawling Peg (Soft Peg):</b> Ethiopia, Honduras, Jamaica, Kazakhstan, Nicaragua, Croatia, Argentina, Botswana, China, Dominican Rep., Egypt, Haiti, Indonesia, Rwanda, Singapore, Tunisia, Uzbekistan</p>

Trade Size

18. This Relative Damage Factor recognizes the effect of trade size on damage.

Relative Damage Factor Table

19. Claimant's Settlement Transaction Volume will be adjusted to account for the Relative Damage Factors as follows:

<b>Settlement Transaction Volume</b>	<b>Most Liquid</b>	<b>Liquid</b>	<b>Illiquid</b>	<b>Pegged</b>
Less than and not including \$1,000,000	0.53	1.47	3.13	0.09
\$1,000,000-\$19,999,999	1.00	2.91	6.24	0.31
\$20,000,000-\$99,999,999	3.51	7.87	13.5	0.74
\$100,000,000 and above	4.82	13.2	22.7	1.52

**Discounts**

20. Trades between January 1, 2003 and November 30, 2007 will be discounted by 40% ("**Time Period Discount**").

**Formulas**

21. Eligible Participation Amounts will be calculated on a trade-by-trade basis using the following formulas by instrument. In the formulas below, "**EPA**" means Eligible Participation Amount and "**STV**" means Settlement Transaction Volume. The formulas are as follows:

**Spot and Forward EPA** = STV x Relative Damage Factor x Time Period Discount  
(if applicable)

Where STV = notional x 1.0 Conversion Ratio

**Futures EPA** = STV x Relative Damage Factor x Time Period Discount (if applicable)

Where STV = notional x 1.0 Conversion Ratio



**Swap EPA** = STV x Relative Damage Factor x Time Period Discount (if applicable)

Where STV = EITHER mismatch swap proportion x 1.0 Conversion Ratio  
OR notional x 0.001 Conversion Ratio

**OTC Option EPA** = STV x Relative Damage Factor x Time Period Discount (if applicable)

Where STV = notional x 0.2 Conversion Ratio

**Option on Futures EPA** = STV x Relative Damage Factor x Time Period Discount (if applicable)

Where STV = notional x 0.2 Conversion Ratio

### ***Payments***

22. Subject to paragraph 23, the Direct Claimants will share the Direct Claimants Fund *pro rata*.
23. No payment will be made if the compensation calculated for a valid Direct Claim is less than \$20. Any amounts remaining in the Direct Claims Fund as a result of this provision will be reallocated *pro rata* across the other valid Direct Claims.
24. In the event there are multiple rounds of distribution, the *pro rata* share payments will be reduced by the hold back amount.
25. If there are more monies allocated to the Direct Claimants Fund than are required to make payment of compensation to all valid Direct Claims made against it, Class Counsel may implement a *pro rata* increase in the compensation payment to Direct Claimants. If a *pro rata* increase is determined to be inappropriate, Class Counsel will prepare a proposal in respect of any excess money and will move to the Courts for approval of it prior to the distribution of the Direct Claimant Fund. In preparing a proposal in respect of how to distribute any excess monies, Class Counsel will consider all relevant factors, including the utility and efficacy of a *cy prè*s distribution, if appropriate.

## INDIRECT CLAIMS FUND AND INDIRECT CLAIMS

26. Indirect Claims will be advanced by Class Members against the Indirect Claims Fund.
27. An Indirect Claimant is not required to document their holdings of Investment Vehicles available in Canada that entered into FX Instruments unless and until the Claims Administrator chooses to audit said claim. Upon auditing of any claim, the Claims Administrator has discretion to determine what documentation is sufficient for the purposes of establishing an Indirect Claimant's holdings of Investment Vehicles. Such acceptable supporting documents may include, but are not limited to, the following: account statements, print outs of online account balances, trade confirmation reports, and any other document that shows the value of an Investment Vehicle.
28. The Claims Administrator will determine if the Indirect Claimant's holdings are included on a list of Investment Vehicles available in Canada that entered into FX Instruments. Such list of Investment Vehicles will be posted online by the Claims Administrator. If the investment is not on the list, then the Claims Administrator will notify Class Counsel who will confirm the claims should be denied for that reason, or whether the investment should be added to the list.

### ***Payments***

29. The Indirect Claimants will receive a payment based on the peak value of their investments over the class period as provided in the chart below:

<b>Peak Investment</b>	<b>Payment</b>
Less than \$100,000	\$20
Over \$100,000 but less than \$1,000,000	\$50

Peak Investment	Payment
Over \$1,000,000	\$50 plus \$1 per \$10,000 in excess of the first \$1,000,000

30. If there are more funds allocated to the Indirect Claim Fund than are required to make payment of compensation for all valid Indirect Claims made against it, Class Counsel may implement an increase in the compensation payable for Indirect Claims. If an increase is determined to be inappropriate, Class Counsel will prepare a proposal in respect of any excess money and will move to the Courts for approval of it prior to the distribution of the Indirect Claim Fund. In preparing a proposal in respect of how to distribute any excess monies, Class Counsel will consider all relevant factors, including the utility and efficacy of a *cy près* distribution, if appropriate.

#### **RESIDUAL DISCRETION FOR THE MANAGEMENT OF THE DISTRIBUTION PROTOCOL**

31. Notwithstanding the foregoing, if, during the claims process or following the claims process and the calculation of compensation in accordance with this Distribution Protocol, Class Counsel have concerns that the claims process and/or Distribution Protocol is producing an unjust result on the whole or to any segment of the Class Members or that a modification is required or recommended, they shall move to the Courts for approval of a reasonable modification to this Distribution Protocol or for further directions with respect to the distribution of the Net Proceeds.

32. In arriving at a determination that an unjust result is occurring or that a modification is required or recommended, Class Counsel shall seek a consensus among themselves, failing which they may move to the Courts for a determination of any such issue.

#### **RESIDUAL DISTRIBUTION**

33. If there remains any amounts in any of the Funds after the distribution has been made to all valid claims in accordance with the provisions of this Distribution Protocol (as

modified, if applicable), Class Counsel will make an application to the Courts to determine how such funds shall be distributed. In preparing a proposal in respect of how to distribute any excess monies, Class Counsel will consider all relevant factors, including the utility and efficacy of a *cy prè*s distribution, if appropriate.

#### **ADMINISTRATION**

34. The administration of this Distribution Protocol and the claims process will be governed by the Administration Protocol.

**Did You, Directly or Indirectly, Trade in the Foreign Exchange Market Between  
January 1, 2003 and December 31, 2013?**

Settlements have been reached with a group of defendants in a Canadian class action relating to an alleged conspiracy among defendants to manipulate the prices of currency purchased in the Foreign Exchange ("FX") or the foreign currency market (the "FX Market"). The settlements are a compromise of disputed claims and the settling defendants do not admit, and expressly deny, any wrongdoing or liability. Approximately 80 million dollars in settlement proceeds is being distributed to class members at this time. If you directly or indirectly entered into an instrument traded in the foreign exchange market between January 1, 2003 and December 31, 2013, or if you held investments in certain eligible funds that entered into a foreign exchange investment during that time, you may be entitled to claim money from the settlement proceeds. For information about the lawsuit, which funds are eligible, and how to make a claim, go to: [www.canadianfxnationalclassaction.ca](http://www.canadianfxnationalclassaction.ca). The deadline to make a claim is January 15, 2020.

**FOREIGN EXCHANGE/FOREIGN CURRENCY MARKET PRICE-FIXING CLASS ACTIONS  
AMENDED NOTICE OF CLAIMS PROCESS**

**PLEASE READ THIS NOTICE CAREFULLY.  
IT MAY AFFECT YOUR LEGAL RIGHTS.**

**REVISED CLAIM DEADLINE: January 15, 2020**

Class Members who wish to apply for compensation from the settlement funds should submit their Claim by this date.

**A. WHO IS AFFECTED BY THIS NOTICE?**

This notice applies to:

**All persons in Canada who, between January 1, 2003 and December 31, 2013, entered into an instrument traded in the foreign exchange market, either directly or indirectly through an intermediary, and/or purchased or otherwise participated in an investment or equity fund, mutual fund, hedge fund, pension fund or any other investment vehicle that entered into an instrument traded in the foreign exchange market.**

You may have previously received notice in this matter. This amended notice reflects certain changes that have been made to the settlement administration process since that notice was issued. These changes include the extension of the claims deadline from August 19, 2019 to January 15, 2020.

**B. WHAT IS THE CLASS ACTION ABOUT?**

This class action arises from an alleged conspiracy among the defendants to fix, raise, maintain, stabilize, control, or enhance unreasonably the prices of currency purchased in the FX or foreign currency market (the "FX Market"). The class action was commenced in Ontario and Québec in September 2015.

**C. COURT APPROVED SETTLEMENTS**

Settlements have been reached in the class action with the following Defendants (the "Settling Defendants"):

<b>Defendants</b>	<b>Settlement Amount</b>
UBS	\$4,950,000
BNP Paribas	\$4,500,000
Bank of America	\$6,500,000
Goldman Sachs	\$6,750,000
JPMorgan Chase	\$11,500,000
Citi	\$21,000,000
Barclays	\$19,677,205
HSBC	\$15,500,000
Royal Bank of Scotland	\$13,220,000
Standard Chartered	\$900,000

Bank of Tokyo Mitsubishi UFJ	\$450,000
Société Générale	\$1,800,000
Morgan Stanley	\$2,300,000
<b>TOTAL</b>	<b>\$109,047,205</b>

The settlements were approved by the Ontario Superior Court of Justice and the Superior Court of Québec (the "Courts"), and were certified against the Settling Defendants for settlement purposes. The Settling Defendants do not admit, and expressly deny, any wrongdoing or liability.

The settlement funds were held in an interest-bearing trust account until November 2018, when they were transferred to Epiq (formerly known as Garden City Group, LLC) (the "Claims Administrator"), an independent third-party.

#### **D. DISTRIBUTION OF SETTLEMENT FUNDS**

The aggregate settlement amounts, plus any costs awards and accrued interest and less court-approved legal fees and deductions (the "Net Proceeds"), are available for compensation to settlement class members. The Net Proceeds equal approximately \$80 million.

On July 4, 2018 and on August 24, 2018, the Courts approved the Plaintiffs' plan of allocation. On August 1, 2019, the Court approved certain changes to the Distribution Protocol (the "Amended Distribution Protocol"). The Amended Distribution Protocol will govern the distribution of the Net Proceeds. A copy of the Distribution Protocol is available at [www.canadianfxnationalclassaction.ca](http://www.canadianfxnationalclassaction.ca).

The Distribution Protocol creates a claims-based process for Claimants to seek compensation from the Net Proceeds. The Protocol is structured to timely and efficiently compensate Class Members according to the quantum and circumstance of their investment in the FX Market, and in a manner that best reflects the anticipated impact of the alleged price-fixing. For the purposes of the Distribution Protocol, Class Members will be divided into two categories:<sup>1</sup>

- (a) *Direct Claimants*: persons in Canada who between January 1, 2003 and December 31, 2013, entered into an FX Instrument directly with a financial institution, including but not limited to the Defendants. Direct Claimants include all Financial Customers and Non-Financial Customers that entered into an FX Trade with an FX Dealer. Investment Vehicles (discussed below) are excluded from the pool of Direct Claimants.
- (b) *Indirect Claimants*: persons in Canada who, between January 1, 2003 and December 31, 2013, entered into an FX Instrument indirectly through an intermediary, and/or purchased or otherwise participated in an
  - i. investment or equity fund;
  - ii. mutual fund;
  - iii. hedge fund, or

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<sup>1</sup> Class Members may advance separate claims in respect of more than one claims category, provided those claims are in compliance with the rules applicable to each claims category. Class Members cannot advance a claim for the same FX Trades in different Funds.

- iv. any other investment vehicle that entered into an FX Instrument.

Included as Indirect Claimants are Investment Vehicles.

### **Direct Claims**

Direct Claims will be advanced by Class Members against the Direct Claims Fund. The Direct Claims Fund will be allocated 80% of Net Proceeds. Direct Claims will be subject to a post-claim audit process.

The alleged conduct of the defendants at issue in the class action was aimed at affecting the FX spot price. Therefore, the impact on the various FX Instruments (and by extension, Direct Claimants' compensation) will be adjusted using "Conversion Ratios" that reflect an FX Instrument's exposure to spot prices. A chart detailing the "Conversion Ratios" applicable to various FX instruments is available at paragraph 14 of the Distribution Protocol. Trades between January 1, 2003 and November 30, 2007 will be discounted, since there are no admissions of manipulation by any of the Defendants prior to December 2007. Adjustments will also be made to account for transaction characteristics ("Relative Damage Factors"), including:

- (a) currency pair traded, which recognizes the effect of the liquidity of a currency pair on damage; and
- (b) trade size.

The Claims Administrator will undertake the following steps to value a claim:

- (a) analyze transaction volume based on the information submitted by the Direct Claimant;
- (b) if any volumes submitted are rejected, send a deficiency notice and provide an opportunity to cure;
- (c) adjust the transaction volume to yield the Claimant's Settlement Transaction Volume;<sup>2</sup>
- (d) adjust the Settlement Transaction Volume to yield the Eligible Participation Amount;<sup>3</sup> and,
- (e) determine the damages calculation and the payment to the Claimant, having regard to any compensation received in other jurisdictions, including the U.S. Proceeding.

Entities applying on behalf of a large groups of funds may be able to use a bulk filing process to expedite claims. For more details on this please contact the Claims Administrator.

### **Formulas**

Eligible Participation Amounts will be calculated on a trade-by-trade basis using the formula set out at paragraph 21 of the Distribution Protocol.

### **Payments**

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<sup>2</sup> "Settlement Transaction Volume" means the gross transaction volume in eligible instruments adjusted by Conversion Ratios that account for an instrument's sensitivity to the spot rate.

<sup>3</sup> "Eligible Participation Amount" means the Settlement Transaction Volume adjusted by Relative Damage Factors that account for two transaction characteristics that affect damages: currency pair traded and trade size.



Direct Claimants will share the Direct Claimants Fund *pro rata*. Payment will be made to Direct Claimants where the compensation calculated for their claim exceeds \$20.

### Indirect Claims

Indirect Claims will be advanced by Class Members against the Indirect Claims Fund. The Indirect Claims Fund will be allocated 20% of the Net Proceeds.

Indirect Claimants will be subject to a post-claim audit process, but do not need to file transactions records in order to make a claim.

The Claims Administrator will determine if the Indirect Claimant's holdings are included on a list of Investment Vehicles available in Canada that entered into FX Instruments. Such list of Investment Vehicles will be posted online by the Claims Administrator. **If the investment is not on the list, then the Claims Administrator will notify Class Counsel who will confirm the claims should be denied for that reason, or that the investment should be added to the list.**

Indirect Claimants will receive a payment based on the cumulative value of their investments over the class period, as provided in the chart below.

Cumulative Investment	Payment
Less than \$100,000	\$20
Over \$100,000 but less than \$1,000,000	\$50
Over \$1,000,000	\$50 plus \$1 per \$10,000 in excess of the first \$1,000,000

### E. APPLYING TO RECEIVE A PAYMENT

Settlement Class Members who wish to apply for compensation under the settlements must apply no later than the extended claims deadline of January 15, 2020 (previously August 19, 2019). Claims that are not made within the deadline will not be eligible for compensation. Applications for settlement benefits should be submitted via the online claim form available at [www.canadianfxnationalclassaction.ca](http://www.canadianfxnationalclassaction.ca)

If you are unable to file an electronic claim, but wish to apply for settlement benefits, please contact the Claims Administrator at (800) 375-9070.

### F. CLAIMS ADMINISTRATOR

The Claims Administrator has been appointed by the Courts to receive and review claims, make determinations in respect of direct payment of settlement benefits, and issue payments to eligible settlement class members.

Questions regarding the claims process should be directed to the Claims Administrator at (800) 375-9070 or [info@canadianfxnationalclassaction.ca](mailto:info@canadianfxnationalclassaction.ca).

### G. CLASS COUNSEL

The law firms of Siskinds LLP, Sotos LLP, Koskie Minsky LLP and Camp Fiorante Matthews Mogerman LLP are lawyers for the Plaintiffs.

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Attention: David Jones

The law firm of Siskinds Desmeules s.e.n.c.r.l. represents individuals and corporations of 50 or fewer employees who are members of this class action in Quebec. Quebec Class Counsel can be reached at:

Telephone: 418-694-2009  
Email: [recours@siskindsdesmeules.com](mailto:recours@siskindsdesmeules.com)  
Mail:  
Les promenades du Vieux-Quebec,  
43 rue De Buade, bureau 320,  
Quebec City, QC G1R 4A2  
Attention: Erika Provencher

You do not need to pay out-of-pocket for the lawyers working on the class actions. The lawyers will be paid from the settlement funds in an amount approved by the courts.

## **H. NOTICE TO INVESTMENT BROKERS**

Investment brokers are asked to deliver this notice, no later than October 30, 2019 by email to your clients who are affected by this class proceeding. Please contact the Claims Administrator if you wish to obtain hard copies of this notice for the purpose of mailing the notice to those clients. Brokerage firms may cumulatively request up to \$15,000 reimbursement for expenses incurred relating to the distribution of this notice to client Class Members. If the cumulative amount requested exceeds \$15,000, each individual

brokerage firm's request shall be reduced on a pro rata basis. Brokerage firms must submit an invoice to Epiq by January 15, 2020 to be eligible for reimbursement.

## **I. QUESTIONS ABOUT THE SETTLEMENTS**

More information about the settlements, the distribution of the settlement funds and the claims process is available online at [www.canadianfxnationalclassaction.ca](http://www.canadianfxnationalclassaction.ca), by email at [info@canadianfxnationalclassaction.ca](mailto:info@canadianfxnationalclassaction.ca), or by calling the Claims Administrator toll-free at (800) 375-9070.

## **J. INTERPRETATION**

This amended notice contains a summary of some of the terms of the settlement agreements and the Distribution Protocol. If there is a conflict between the provisions of this amended notice and the settlement agreements or Distribution Protocol, the terms of the settlement agreements or Distribution Protocol shall prevail.

This amended notice has been approved by the Ontario Superior Court of Justice.

**SECOND PLAN OF DISSEMINATION – AMENDED NOTICE OF CLAIMS PROCESS  
CANADIAN FX PRICE-FIXING CLASS ACTION**

The Amended Notice of Claims Process shall be distributed in the following manner:

Amended Short-Form Notice:

1. Shall be published once in the following newspapers, in either English or French, as is appropriate for each newspaper, subject to each having reasonable publication deadlines and costs:
  - (a) The Globe and Mail (National Edition);
  - (b) The Financial Post; and
  - (c) Le Journal de Montréal.
2. Shall be posted in English and French:
  - (a) by Class Counsel on Class Counsel's respective websites; and
  - (b) by the Claims Administrator at <http://www.canadianfxnationalclassaction.ca/>, a website established for the purposes of the litigation.
3. Where the person or company is located in Quebec, the Amended Notice will be sent in English and French.

Amended Long-Form Notice:

4. Shall be posted in English and French:
  - (a) by Class Counsel on Class Counsel's respective websites; and
  - (b) by the Claims Administrator at <http://www.canadianfxnationalclassaction.ca/>, a website established for the purposes of the litigation.
5. Shall be sent by email within seven (7) days of the first publication of the Publication Amended Notice, by the Claims Administrator, to:
  - (a) persons who inquired about the class action, to the extent that Class Counsel or the Claims Administrator have their name and address information;
  - (b) the customers of the defendants to the extent that such information has been provided to Class Counsel or the Claims Administrator; and
  - (c) the headquarters of each business listed in the most recent version of the FP500 list of Canada's largest corporations by revenue.

Press Release:

6. A press release will be issued in English and French through the Canadian Press (Nasdaq GlobeNewswire).

Digital Advertising:

7. Digital notice will be provided through advertisements placed on the following advertising and social media networks: Google, Yahoo, Facebook and LinkedIn.

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at Toronto

Proceeding under the *Class Proceedings Act, 1992*

**ORDER  
(AMENDMENTS TO SETTLEMENT ADMINISTRATION)  
(Returnable August 1, 2019)**

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