

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

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| IN RE LIBOR-BASED FINANCIAL INSTRUMENTS ANTITRUST LITIGATION |) | |
| |) | |
| |) | MDL No. 2262 |
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| THIS DOCUMENT RELATES TO: Case No. 12-CV-1025 (NRB) |) | Master File No. 1:11-md-2262-NRB |
| |) | ECF Case |
| |) | |

**~~PROPOSED~~ ORDER PRELIMINARILY APPROVING THE SETTLEMENTS
BETWEEN BONDHOLDER PLAINTIFFS AND BANK OF AMERICA
CORPORATION, BANK OF AMERICA, N.A., JPMORGAN CHASE & CO.,
JPMORGAN CHASE BANK, N.A., AND THE ROYAL BANK OF SCOTLAND
GROUP PLC, CONDITIONALLY CERTIFYING THE BONDHOLDER
SETTLEMENT CLASSES, AND APPOINTING SETTLEMENT CLASS COUNSEL**

THIS CAUSE came before the Court on Bondholder Plaintiffs’ Motion for Preliminary Approval of Settlements with JPMorgan Chase & Co. and JPMorgan Chase Bank, N.A. (collectively “JPM”), Bank of America Corporation and Bank of America, N.A. (collectively “BOA”), and The Royal Bank of Scotland Group plc¹ (“RBS”) (all together the “Settling Defendants” or “JPM/BOA and RBS”), filed on April 8, 2020.² Bondholder Plaintiffs entered into a settlement agreement with BOA and JPM dated November 12, 2019 (the “BOA/JPM Settlement Agreement”), and Bondholder Plaintiffs entered into a separate settlement agreement with RBS dated March 25, 2020 (the “RBS Settlement Agreement” and, with the BOA/JPM Settlement Agreement, the “Settlement Agreements”). The Court, having reviewed the Motion, its accompanying

¹ The RBS Settlement also releases claims against The Royal Bank of Scotland plc (“RBS plc,” now known as NatWest Markets Plc).
² Bondholder Plaintiffs’ Motion for Preliminary Approval is referred to herein as the “Motion.”

memorandum, the Settlement Agreements, the Declaration of Karen L. Morris and Robert S. Kitchenoff in Support of Bondholder Plaintiffs’ Motion for Preliminary Approval of Settlements with Bank of America Corporation, Bank of America, N.A., JPMorgan Chase & Co., JPMorgan Chase Bank, N.A., and The Royal Bank of Scotland Group plc., Conditionally Certifying the Bondholder Settlement Classes and Appointing Settlement Class Counsel (the “Morris-Kitchenoff Declaration”)³, and the file, hereby **ORDERS AND ADJUDGES:**

PRELIMINARY APPROVAL OF SETTLEMENT AGREEMENTS

1. The terms of the Settlement Agreements are hereby preliminarily approved, subject to final Court approval pursuant to Federal Rule of Civil Procedure 23 following a hearing to be held by the Court, on notice to the Settlement Classes (defined below), to determine whether the settlements set forth in the Settlement Agreements are fair, reasonable, and adequate to the Settlement Classes (the “Fairness Hearing”), as discussed below. The Court finds that the Settlement Agreements were entered into at arm’s length by experienced counsel and are sufficiently within the range of reasonableness that notice of the Settlement Agreements should be given to the members of the Settlement Classes as provided in this Order. Any terms not defined herein shall have the meaning ascribed to them in the Settlement Agreements.

CERTIFICATION OF SETTLEMENT CLASSES

2. Pursuant to Rule 23 of the Federal Rules of Civil Procedure and in light of the proposed BOA/JPM settlement, the Court hereby finds that the prerequisites for conditional certification have been met and certifies the following BOA/JPM settlement class for settlement purposes only (the “BOA/JPM Settlement Class”):

³ Any capitalized terms used herein not otherwise defined shall have the same definition as in the relevant Settlement Agreement(s).

All persons and entities (other than defendants in the Bondholder Action and their affiliated persons and entities) who owned (including beneficially or in “street name”) any USD LIBOR-Based Debt Security; provided, however that any such securities that were issued by any defendant, including its subsidiaries and affiliates, as obligor, are excluded from the definition of LIBOR-Based Debt Security.

The term “USD LIBOR-Based Debt Security” means any U.S. dollar-denominated debt security (a) that was assigned a unique identification number by the CUSIP system, (b) on which interest was payable at any time during the Class Period, and (c) where that interest was payable at a rate expressly tied to U.S. Dollar LIBOR (“USD LIBOR”). Excluded from the definition of U.S. Dollar LIBOR-Based Debt Security are any securities that were issued by any defendant or its subsidiaries or affiliates as obligor.

Pursuant to Rule 23 of the Federal Rules of Civil Procedure and in light of the proposed RBS settlement, the Court further hereby finds that the prerequisites for conditional certification have been met and certifies the following RBS settlement class for settlement purposes only (the “RBS Settlement Class”):

All persons and entities (other than defendants in the Bondholder Action and their affiliated persons and entities) who owned (including beneficially or in “street name”) any debt security that was assigned a unique identification number by the CUSIP system, on which interest was payable at any time between August 1, 2007, and May 31, 2010, and where that interest was payable at a rate expressly tied to the U.S. Dollar LIBOR rate (“LIBOR-Based Debt Security”); provided, however that any such securities that were issued by any Defendant, including its subsidiaries and affiliates, as obligor, are excluded from the definition of USD LIBOR-Based Debt Security.

The Class Period for the BOA/JPM Settlement and the RBS Settlement is from August 1, 2007 through May 31, 2010.

3. The Court finds, for purposes of settlement only, that the certification of the BOA/JPM Settlement Class and the RBS Settlement Class (collectively the “Settlement Classes”) is warranted in light of the Settlement Agreements because (a) the members of the Settlement

Classes are so numerous that joinder of all members is impracticable; (b) the claims of Bondholder Plaintiffs (defined below) present common issues and are typical of the claims of the members of the Settlement Classes; (c) Bondholder Plaintiffs and Bondholder Settlement Class Counsel (defined below) will fairly and adequately protect the interests of the Settlement Classes; and (d) common issues predominate over any issues affecting only individual members of the Settlement Classes. The Court further finds, for purposes of settlement only, that Bondholder Plaintiffs' interests are aligned with the interests of all other members of the Settlement Classes and that approval of the settlements on a class basis is superior to other means of resolving this matter.

4. The Court hereby appoints Morris and Morris LLC Counselors At Law and Weinstein Kitchenoff & Asher LLC as Bondholder Settlement Class Counsel, having determined that the requirements of Rule 23(g) of the Federal Rules of Civil Procedure are fully satisfied by this appointment.

5. The Court hereby appoints Ellen Gelboim and Linda Zacher ("Bondholder Plaintiffs") to serve as class representatives for the Settlement Classes.

PLAN OF DISTRIBUTION AND NOTICE TO POTENTIAL CLASS MEMBERS

6. As soon as practicable, Bondholder Settlement Class Counsel shall submit to the Court for approval a plan of allocation and a notice plan for purposes of advising members of the Settlement Classes, among other things, of the plan of allocation, their right to object to the terms of the Settlement Agreements, their right to exclude themselves from the Settlement Classes, the procedure for submitting an objection or request for exclusion, the time, date, and location of the Fairness Hearing, and their right to, and the procedure to appear at the Fairness Hearing. To be valid for any purpose, a request for exclusion must be timely and include all the required information specified in the Notice.

SETTLEMENT ADMINISTRATION

7. The Court approves Epiq as the Claims Administrator.
8. The Court approves Wilmington Saving Fund Society FSB as Escrow Agent.

OTHER PROVISIONS

9. In the event that one or both of the Settlement Agreements are terminated in accordance with their provisions, that Settlement Agreement and all proceedings had in connection therewith shall be null and void, except insofar as expressly provided to the contrary in that Settlement Agreement, and without prejudice to the *status quo ante* rights of Bondholder Plaintiffs, the applicable Settling Defendants, and the members of the applicable Settlement Class, with all of their respective legal claims and defenses preserved as they existed as of the date of the execution of the relevant Term Sheet(s), including without limitation any objection or defense based on a lack of personal jurisdiction.

10. The Court's certification of the Settlement Classes as provided herein is without prejudice to, or waiver of the rights of any defendant to contest certification of any other class proposed in these consolidated actions. The Court's findings in this Order shall have no effect on the Court's ruling on any motion to certify any litigation class in this action, and no party may cite or refer to the Court's approval of the Settlement Classes as persuasive or binding authority with respect to any motion to certify any such class.

11. All proceedings in the action with respect to BOA, JPM, and RBS are stayed until further order of the Court. Such stay does not apply, however, to the extent actions are necessary to implement or comply with the terms of the Settlement Agreements. Pending final determination of whether the Settlement Agreements should be approved, neither Bondholder Plaintiffs nor any

member of the Settlement Classes shall commence or prosecute any action alleging any Released Claim against BOA, JPM, or RBS, or other released party.

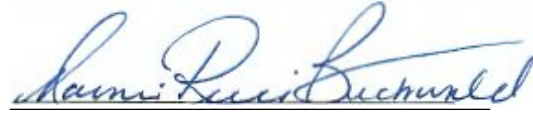
12. Neither this Order nor the proposed settlements (including the Settlement Agreements or any of their terms, any negotiations or proceedings connected with the Settlement Agreements, or any act performed or document executed pursuant to or in furtherance of the Settlements): (a) shall be admissible in any proceeding for any purpose, except to enforce the terms of this Order and/or the Settlement Agreements (including, without limitation, to seek dismissal of any pending or future action as a Released Claim or according to the doctrines of collateral estoppel or res judicata); (b) shall be deemed or construed to be or used as an admission, adjudication or evidence of the validity of any Released Claims, of any allegation made in the Action, or of any wrongdoing or liability of any released party; or (c) shall be deemed to be or used as an admission, adjudication or evidence of any violation of any domestic or foreign statute, law, or regulation or of any liability, fault, wrongdoing or omission of any released party in any civil, criminal, or administrative proceeding before any court, administrative agency, arbitration panel or other tribunal.

13. Except as provided in the Settlement Agreements, none of the Settling Defendants nor any of their counsel shall have any responsibility for, or liability whatsoever with respect to notice procedures; the investment, administration, or distribution of the Settlement Funds; the plan of distribution; the determination, administration, calculation, or payment of any claims asserted against the Settlement Funds or any funds held by the Escrow Agent; the payment or withholding of Taxes or any losses incurred in connection therewith; any application for attorneys' fees, service awards or expenses submitted by Class Plaintiffs or Settlement Class Counsel; or any allocation of the fee and expense award by Settlement Class Counsel. Any such matters will

be considered separately from the fairness, reasonableness, and adequacy of the Settlement Agreements.

IT IS SO ORDERED.

DATED: May 5 , 2020


NAOMI REICE BUCHWALD
UNITED STATES DISTRICT JUDGE