

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

IN RE FOREIGN EXCHANGE  
BENCHMARK RATES ANTITRUST  
LITIGATION

No. 1:13-cv-07789-LGS

**DECLARATION OF CHRISTOPHER M. BURKE IN SUPPORT OF PLAINTIFFS'  
MOTION FOR ENTRY OF AN ORDER APPROVING THE SECOND DISTRIBUTION  
OF THE SETTLEMENT FUND AND DISTRIBUTION OF ATTORNEYS' FEES**

Pursuant to 28 U.S.C. §1746, I, Christopher M. Burke, declare:

1. I am a partner at the law firm of Scott+Scott Attorneys at Law LLP (“Scott+Scott”), one of the Court-appointed Lead Counsel in the above-captioned action (the “Action”). I submit this declaration in support of Plaintiffs’ Motion for Entry of an Order Approving the Second Distribution of the Settlement Fund and Distribution of Attorneys’ Fees. I have personal knowledge of the facts set forth herein and, if called upon, could and would testify thereto.

**The Settlement Fund**

2. The Settlements<sup>1</sup> in this Action establish a Settlement Fund totaling \$2,310,275,000.

3. In carrying out our role as Court-appointed Class Counsel, and in accordance with paragraph 10(d) of the Settlements (*see, e.g.*, ECF No. 481-6), Scott+Scott, together with Hausfeld LLP (together, “Class Counsel”), has invested the Settlement Fund in U.S. government securities. To date, the total interest earned by the Settlement Fund from these investments is over \$100 million. This interest has more than paid for administration expenses, litigation expenses, and taxes.

4. On November 8, 2018, the Court awarded Class Counsel attorneys’ fees (the “Fee Order”) (ECF No. 1140). On March 8, 2019, the Court approved payment of an initial distribution from the Settlement Fund (the “Initial Distribution”) (ECF No. 1230) to Authorized Claimants, at which time half of the Fee Order was paid to Class Counsel. The Fee Order instructs that the remaining half of attorneys’ fees be paid upon substantial distribution of the Settlement Fund.

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<sup>1</sup> The Stipulations of Settlement are collectively referred to as the “Settlements” or the “Settlement Agreements.” Unless otherwise defined herein, all capitalized terms have the meanings ascribed to them in the Settlement Agreements.

5. The Fee Order excluded the payment of interest of Class Counsel’s fees and expenses, which has resulted in a benefit to the Class of over \$13 million. This interest will also be paid to Authorized Claimants.

6. Class Counsel has calculated an accounting of the Settlement Fund, as follows:

<b>Settlement Fund</b>	\$2,310,275,000
<b>Interest (earned and estimated future, all sources)</b>	\$106,811,050
Interest (excluding fees & expenses interest)	\$93,789,723
Interest (attributable to attorneys’ fees & litigation expenses, to date)	\$13,021,327
<b>Gross Settlement Fund (Settlement Fund + Interest)</b>	<b>\$2,417,086,050</b>

<b>Distributions to Claimants</b>	<b>Amount</b>
Initial Distribution (authorized)	\$54,006,249
Second Distribution (if approved)	\$435,114,487
Future Distributions (estimated)	\$1,524,192,909
<b>Total</b>	<b>\$2,013,313,645</b>

7. As the accounting demonstrates, claimants will receive over \$2 billion, which represents 87% of the Settlement Fund.

### **Class Counsel’s Role in Claims Administration**

8. Since the Initial Distribution, Class Counsel has continued to work with the Court-appointed Claims Administrator, Epiq Systems, Inc. (“Epiq”), and experts in the claims process (Ankura and Velador (“Settlement Experts”)), to analyze and process claims. This process has required Class Counsel to devote significant time to defending the Settlements, protect the integrity of the claims process, and avoid dilution of the Settlement Fund by inflated claim submissions. We will continue to do so.

9. As discussed in §I.A. of the Memorandum in Support of Plaintiffs’ Motion for Entry of an Order Approving the Second Distribution of the Settlement Fund and Distribution of Attorneys’ Fees (“Second Distribution Brief”), after a final administrative determination,

claimants may, within 20 days, request Court review of the administrative determination. Class Counsel and Epiq review all requests for Court review and attempt to resolve objections.

10. As discussed in §II.C. of the Second Distribution Brief, certain pending claims that will remain after this motion are largely complex, high-dollar claims which require additional scrutiny to protect the integrity of the claims process and avoid dilution of the Settlement Fund by inflated claim submissions. These pending claims amount to 4% of Estimated Authorized Claims.

11. To date, the claims process has required a great deal of oversight and attention by Class Counsel. In addition to liaising with potential opt-outs and assisting class members with filing claims, Class Counsel has overseen Epiq and the Settlement Experts, engaging in frequent communication with, and review of, their work. This work has been extensive given the size of the Settlement Fund and complexity of claims. Class Counsel has also been in daily communication with claimants and their agents regarding the claims process. Class Counsel will continue to provide a high level of attention and effort to the remaining work of claims administration, including the completion of the remaining 4% of claims and the exhaustion of the Settlement Fund.

### **Ongoing Litigation Against Credit Suisse**

12. In addition to its work in settlement administration, Class Counsel continues to prosecute the Class's claims against Credit Suisse. After moving for attorneys' fees in 2018, Class Counsel has completed class and merits expert discovery. Class Counsel took or defended a total of 106 depositions. Class Counsel briefed class certification and related *Daubert* motions and obtained certification of a Rule 23(c)(4) litigation class. Class Counsel completed document discovery and built, and continues to refine and maintain, databases consisting of millions of pages of chats and billions of rows of data. Class Counsel filed affirmative and defensive summary

judgment briefing, including voluminous Rule 56.1 statements and exhibits and related merits reports, and is presently preparing for trial. In prosecuting the claims on behalf of the Class, Class Counsel continues to incur substantial out-of-pocket costs to fund ongoing litigation expenses as the case proceeds to trial.

I certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on November 23, 2021, in San Diego, California.



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**CERTIFICATE OF SERVICE**

I hereby certify that on November 23, 2021, I caused the foregoing to be electronically filed with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the email addresses denoted on the Electronic Mail Notice List.

s/ Christopher M. Burke  
Christopher M. Burke