

COUR SUPÉRIEURE
(Chambre des actions collectives)

CANADA
PROVINCE DE QUÉBEC
DISTRICT DE QUÉBEC

N° : 200-06-000189-152

DATE : Le 5 mai 2017

SOUS LA PRÉSIDENTE DE L'HONORABLE CLAUDE BOUCHARD, j.c.s.

CHRISTINE BÉLAND

Demanderesse

c.

BANQUE ROYALE DU CANADA
et
RBC MARCHÉ DES CAPITAUX, SARL
et
BANK OF AMERICA CORPORATION
et
BANK OF AMERICA, N.A.
et
BANQUE D'AMÉRIQUE DU CANADA
et
BANK OF AMERICA, NATIONAL ASSOCIATION
et
THE BANK OF TOKYO MITSUBISHI UFJ LTD.
et
BANQUE DE TOKYO-MITSUBISHI UFJ (CANADA)
et
BARCLAYS BANK PLC
et
BARCLAYS CAPITAL INC.
et

JB 3836

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BARCLAYS CAPITAL CANADA INC.
et
GROUPE BNP PARIBAS
et
BNP PARIBAS NORTH AMERICA, INC.
et
BNP PARIBAS (CANADA)
et
BNP PARIBAS
et
CITIGROUP, INC.
et
CITIGROUP GLOBAL MARKETS CANADA INC.
et
CITIBANK, N.A.
et
CITIBANQUE CANADA
et
CREDIT SUISSE GROUP AG
et
CREDIT SUISSE SECURITIES (USA) LLC
et
VALEURS MOBILIÈRES CRÉDIT SUISSE (CANADA), INC.
et
CREDIT SUISSE AG
et
BANQUE D'ALLEMAGNE
et
LE GROUPE GOLDMAN SACHS
et
GOLDMAN, SACHS & CO.
et
GOLDMAN SACHS CANADA INC.
et
HSBC HOLDINGS PLC
et
HSBC BANK PLC
et
HSBC NORTH AMERICA HOLDINGS INC.
et
HSBC BANK USA, N.A.
et
BANQUE HSBC CANADA
et

200-06-000189-152

JPMORGAN CHASE & CO.

et

J.P. MORGAN BANK CANADA

et

J.P. MORGAN CANADA

et

BANQUE JPMORGAN CHASE, ASSOCIATION NATIONALE

et

MORGAN STANLEY

et

MORGAN STANLEY CANADA LIMITEE

et

ROYAL BANK OF SCOTLAND GROUP PLC

et

RBS SECURITIES, INC.

et

ROYAL BANK OF SCOTLAND N.V.

et

LA BANQUE RBS PLC

et

SOCIÉTÉ GÉNÉRALE S.A.

et

SOCIÉTÉ GÉNÉRALE

et

SOCIÉTÉ GÉNÉRALE (CANADA)

et

STANDARD CHARTERED PLC

et

UBS AG

et

UBS SECURITIES LLC

et

BANQUE UBS (CANADA)

Défenderesses

**JUGEMENT SUR DEMANDE POUR OBTENIR L'APPROBATION D'UNE
TRANSACTION**

200-06-000189-152

[1] **ATTENDU** que les parties sont impliquées dans un litige de la nature d'une action collective;

[2] **ATTENDU** qu'une entente de règlement a été conclue entre la demanderesse et les défenderesses suivantes (ci-après les « Défenderesses qui règlent¹ »), à savoir Le Groupe Goldman Sachs, Goldman Sachs & Co. et Goldman Sachs Canada Inc. (ci-après l' « Entente Goldman »);

[3] **ATTENDU** que la demanderesse demande l'approbation de l'Entente Goldman;

[4] **CONSIDÉRANT** le jugement rendu le 21 décembre 2016 par lequel la Cour a approuvé le contenu et ordonné la publication de l'avis d'audience aux membres;

[5] **CONSIDÉRANT** que les avis ont été publiés en temps opportun, en français et en anglais;

[6] **CONSIDÉRANT** l'expiration de l'échéance fixée pour s'opposer à l'Entente Goldman sans qu'il n'y ait eu d'objection écrite à l'Entente Goldman;

[7] **CONSIDÉRANT** que le délai pour s'exclure de l'action collective au Québec est expiré;

[8] **CONSIDÉRANT** l'article 590 du *Code de procédure civile*;

[9] **CONSIDÉRANT** que la demande a dûment été notifiée au Fonds d'aide aux actions collectives;

[10] **CONSIDÉRANT** les représentations des avocats;

[11] **APRÈS EXAMEN**, il y a lieu de faire droit à la demande de la demanderesse;

POUR CES MOTIFS, LE TRIBUNAL :

[12] **ACCUEILLE** la demande;

[13] **DÉCLARE** qu'au surplus des définitions utilisées ailleurs dans ce jugement, et pour les fins de ce jugement, les définitions contenues dans l'Entente Goldman, jointe comme Annexe A à ce jugement, s'appliquent et sont incorporées au présent jugement;

[14] **DÉCLARE** qu'en cas de conflit entre le présent jugement et l'Entente Goldman, le présent jugement prévaudra;

[15] **DÉCLARE** que les définitions suivantes s'appliquent :

¹ « *Settling Defendants* ».

- a) **Effective Date**² means the date when Final Orders have been received from all Courts approving the Settlement Agreement.
- b) **Released Claims**³ mean any and all manner of claims, including "Unknown Claims," as defined in the Settlement Agreement, causes of action, crossclaims, counterclaims, charges, liabilities, demands, judgments, suits, obligations, debts, setoffs, rights of recovery, or liabilities for any obligations of any kind whatsoever (however denominated), whether class or individual, in law or equity or arising under constitution, statute, regulation, ordinance, contract, or otherwise in nature, for fees, costs, penalties, fines, debts, expenses, lawyers' fees, disgorgement, restitution and damages, whenever incurred, and liabilities of any nature whatsoever (including joint and several), known or unknown, suspected or unsuspected, asserted or unasserted, arising from or relating in any way to any conduct alleged or that could have been alleged in and arising from the factual predicate of the Proceedings⁴, or any amended complaint or pleading therein, from the beginning of time until the Effective Date, which shall be deemed to include but not be limited to: (i) communications related to FX Instruments, FX Trading, or FX Benchmark Rates, between a Released Party and any other FX dealer or any other participant in the conspiracy alleged in the Proceedings through chat rooms, instant messages, email, or other means; (ii) agreements, arrangements, or understandings related to FX Instruments, FX Trading, or FX Benchmark Rates, between a Released Party and any other FX dealer or any other participant in the conspiracy alleged in the Proceedings through chat rooms, instant messages, email, or other means; (iii) the sharing or exchange of customer information between a Released Party and any other FX dealer or any other participant in the conspiracy alleged in the Proceedings - including but not limited to customer identity, trading patterns, transactions, net positions or orders, stop losses or barrier options, pricing, or spreads related to FX Instruments, FX Trading, or FX Benchmark Rates; (iv) the establishment, calculation, manipulation, or use of the WM/Reuters fixing rates, including the 4:00 p.m. London closing spot rates, and trading that may impact such rates; (v) the establishment, calculation, manipulation, or use of the European Central Bank FX reference rates, including the ECB rate set at 1:15 p.m. London time; (vi) the establishment, calculation, manipulation, or use of the CME daily settlement rates; (vii) the establishment, calculation, manipulation, or use of any other FX benchmarks, including benchmark fixing rates, benchmark settlement rates, or benchmark reference rates; (viii) the establishment, calculation, communication, manipulation, or use of the price, spread, or rate of any FX Instrument or FX Exchange-Traded

² Date d'entrée en vigueur.

³ Réclamations quittancées.

⁴ Procédures.

Instrument; and (ix) the sharing or exchange of customer information or confidential information in the possession of the Settling Defendants between a Released Party and any other FX dealer or any other participant in the conspiracy alleged in the Proceedings related to the establishment, calculation, manipulation, or use of any FX price, spread, or rate. Provided, however, Released Claims do not include "last look" claims related to possible delays built into the Settling Defendants' algorithmic or electronic trading platforms that resulted in the Settling Defendants declining spot orders or requests to trade, including trading on electronic communications networks, that were submitted based upon prices the Settling Defendants quoted or displayed in over-the-counter FX markets, notwithstanding anything to the contrary herein.

- c) **Releasees**⁵ means, jointly and severally, individually and collectively, the Settling Defendants and each of their past, present and future, direct and indirect parents (including holding companies), owners, subsidiaries, divisions, predecessors, successors, affiliates, associates (as defined in the *Canada Business Corporations Act*, RSC 1985, c C-44), partners, insurers, and all other Persons, partnerships or corporations with whom any of the former have been, or are now, affiliated, and each of their respective past, present and future officers, directors, employees, agents, shareholders, attorneys, legal or other representatives, trustees, servants and representatives, members, managers and the predecessors, successors, purchasers, heirs, executors, administrators and assigns of each of the foregoing, excluding always the Non-Settling Defendants⁶.
- d) **Settled Defendant** means:
- i. Bank of America Corporation, Bank of America, N.A., Bank of America Canada, and Bank of America National Association;
 - ii. BNP Paribas Group, BNP Paribas North America Inc., BNP Paribas (Canada), and BNP Paribas;
 - iii. Citigroup, Inc., Citibank, N.A., Citibank Canada, and Citigroup Global Markets Canada Inc. to the extent that the settlement agreement with such entities is finally approved by this Court;
 - iv. JPMorgan Chase & Co., J.P. Morgan Bank Canada, J.P. Morgan Canada and JPMorgan Chase Bank National Association, to the extent that the settlement agreement with such entities is finally approved by this Court;

⁵ Parties Quittancées.

⁶ Défenderesses qui ne sont pas parties à l'Entente.

- v. UBS AG, UBS Securities LLC and UBS Bank (Canada); and
 - vi. any Defendant that executes its own settlement agreement after the execution of the Settlement Agreement, which settlement agreement is finally approved by the necessary Courts.
- e) **Quebec Settlement Class** means All Persons in Quebec who, between January 1, 2003 and December 31, 2013, entered into an FX Instrument^[1] 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. Excluded from the class are the defendants, their parent companies, subsidiaries, and affiliates; provided, however, that Investment Vehicles^[2] shall not be excluded from the Settlement Class.

[1] "FX Instruments" includes FX spot transactions, outright forwards, FX swaps, FX options, FX futures contracts, options on FX futures contracts, and other instruments traded in the FX market.

[2] "Investment Vehicles" means any investment company or pooled investment fund, including, but not limited to, mutual fund families, exchange-traded funds, fund of funds and hedge 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.

[16] **DÉCLARE** que le présent jugement, incluant l'Entente Goldman, lie chaque Membre du Groupe visé par le Règlement au Québec, incluant les personnes mineures et celles qui sont inaptes;

[17] **DÉCLARE** que l'Entente Goldman est équitable, raisonnable et dans le meilleur intérêt des Membres du Groupe visé par le Règlement au Québec et constitue une transaction au sens de l'article 2631 du *Code civil du Québec*;

[18] **APPROUVE** l'Entente Goldman en accord avec l'article 590 du *Code de procédure civile* et **ORDONNE** qu'elle soit mise en œuvre en conformité avec ses termes;

[19] **DÉCLARE** qu'à compter de la Date d'entrée en vigueur, chaque Membre du Groupe visé par le Règlement au Québec doit consentir et sera réputé avoir consenti irrévocablement au rejet de ses Autres Actions⁷ commencées contre les Parties Quittancées, sans frais et sans réserve;

⁷ « Other Actions ».

[20] **DÉCLARE** qu'à compter de la Date d'entrée en vigueur, toute Autre Action débutée au Québec doit être et est, par le présent jugement, rejetée contre les Parties Quittancées, sans frais et sans réserve;

[21] **DÉCLARE** qu'à compter de la Date d'entrée en vigueur, chaque Partie donnant quittance⁸ a quittancé et sera considérée avoir donné une quittance complète, générale et finale aux Parties Quittancées eu égard aux Réclamations Quittancées;

[22] **DÉCLARE** qu'à compter de la Date d'entrée en vigueur, chaque Partie donnant quittance ne pourra maintenant ou dans le futur, intenter, continuer, maintenir, intervenir ou faire valoir, directement ou indirectement, au Canada ou ailleurs, pour son propre compte ou pour le compte de tout groupe ou de toute autre personne, toute procédure, cause d'action, réclamation ou demande contre l'une ou l'autre des Parties Quittancées ou toute autre personne qui pourrait réclamer une contribution, une indemnité ou toute autre réclamation de n'importe laquelle des Parties Quittancées, en rapport avec les Réclamations Quittancées ou toute autre matière y étant reliée, à l'exception de ce qui suit :

- a) la continuation des Procédures contre les Défenderesses qui ne sont pas parties à l'Entente Goldman ou toute autre partie désignée ou non-désignée dans les Procédures qui n'est pas une Partie Quittancée; ou
- b) si les Procédures ne sont pas autorisées comme action collective eu égard aux Défenderesses qui ne sont pas partie à l'Entente Goldman, la continuation des actions sur une base individuelle contre les Défenderesses qui ne sont pas parties à l'Entente Goldman ou toute autre partie désignée ou non-désignée dans les Procédures qui n'est pas une Partie Quittancée;

[23] **DÉCLARE** que, par l'Entente Goldman, la demanderesse et les Membres du Groupe visé par le Règlement au Québec renoncent expressément au bénéfice de la solidarité envers les Défenderesses qui ne sont pas parties à l'Entente Goldman, eu égard aux faits et aux gestes des Parties Quittancées;

[24] **DÉCLARE** que la demanderesse et les Membres du Groupe visé par le Règlement ne pourront dorénavant réclamer et obtenir que les dommages, y incluant les dommages punitifs, les intérêts et les frais (y compris les frais d'enquête en vertu de l'article 36 de la *Loi sur la concurrence*), attribuables aux agissements des Défenderesses qui ne sont pas parties à l'Entente Goldman;

[25] **DÉCLARE** que tout appel en garantie ou autre mise en cause pour obtenir une contribution ou une indemnité des Parties Quittancées, ou se rapportant aux Réclamations Quittancées, sera irrecevable et non avenu dans le cadre des Procédures;

⁸ « Releasor ».

[26] **DÉCLARE** que le droit des Défenderesses qui ne sont pas parties à l'Entente Goldman d'interroger les Défenderesses qui règlent sera régi par les règles du *Code de procédure civile* et que les Défenderesses qui règlent conservent tous leurs droits de s'opposer à de tels interrogatoires en vertu du *Code de procédure civile*, le cas échéant; En outre, rien dans le présent jugement n'empêche une Défenderesse qui règle de demander une ordonnance de protection visant à préserver la confidentialité et la protection des renseignements exclusifs concernant les documents à produire et/ou les renseignements obtenus lors d'un interrogatoire. Nonobstant toute disposition du présent jugement, sur toute demande présentée en vertu de ce paragraphe, la Cour pourra rendre les ordonnances au sujet des frais de justice et autres modalités qu'elle juge appropriées;

[27] **DÉCLARE** que les Défenderesses qui ne sont pas parties à l'Entente Goldman pourront valablement notifier toute procédure pouvant être requise pour faire valoir leurs droits découlant des paragraphes qui précèdent aux Défenderesses qui règlent en notifiant telle procédure à l'avocat *ad litem* de cette partie, tel qu'il est identifié dans le présent jugement;

[28] **DÉCLARE** que l'approbation de l'Entente Goldman et le présent jugement, ainsi que tout motif donné par le Tribunal en lien avec l'approbation de l'Entente Goldman et le présent jugement, n'affectent en rien les droits ou les moyens de défense des Défenderesses qui ne sont pas parties à l'Entente Goldman dans le cadre du présent recours, et, sans limiter la généralité de ce qui précède, ne sauront en aucun cas servir de fondement aux fins d'établir la compétence du Tribunal, les critères d'autorisation (incluant la définition du Groupe) ou l'existence des éléments constitutifs du droit d'action allégué dans la demande d'autorisation d'exercer une action collective au Québec, à l'encontre des Défenderesses qui ne sont pas parties à l'Entente Goldman;

[29] **DÉCLARE** que cette Cour conservera un rôle de surveillance continue, aux fins d'administration et d'exécution de l'Entente Goldman et de ce jugement et **CONSTATE** que les Défenderesses qui règlent reconnaissent la compétence de cette Cour uniquement pour les fins d'exécution, d'administration et de mise en œuvre de l'Entente Goldman et du présent jugement et sujet aux termes et conditions prévues dans l'Entente Goldman et le présent jugement;

[30] **DÉCLARE** qu'à l'exception de ce qui est autrement spécifié, le présent jugement n'affecte en rien les droits ou les réclamations qu'ont ou pourraient avoir les Membres du Groupe visé par le Règlement au Québec dans le Recours du Québec contre les Défenderesses qui ne sont pas parties à l'Entente Goldman ou toute autre partie désignée ou non-désignée dans les Procédures qui ne sont pas des Parties Quittancées;

[31] **DÉCLARE** que les Parties Quittancées n'ont aucune responsabilité ou obligation quelconque quant à l'administration de l'Entente Goldman, y compris dans la gestion, le

placement ou la distribution du montant de l'entente ou quant au protocole de distribution;

[32] **ORDONNE** que toute somme composant le montant de l'entente soit détenue en fidéicommiss par les Avocats du Groupe⁹ pour le bénéfice des Membres du Groupe visé par le Règlement et qu'après la Date d'entrée en vigueur de l'entente, le montant de l'entente puisse être utilisé afin de payer les déboursés encourus par les Avocats du Groupe dans la poursuite des Procédures contre les Défenderesses qui ne sont pas parties aux ententes. Ce paragraphe ne doit pas être interprété comme affectant les droits de la demanderesse et des Membres du Groupe visé par le Règlement de réclamer ces déboursés des Avocats du Groupe dans le contexte d'une éventuelle condamnation aux frais de justice en leur faveur contre les Défenderesses qui ne sont pas parties à l'Entente Goldman ou les droits des Défenderesses qui ne sont pas parties à l'Entente Goldman de s'opposer à une telle réclamation;

[33] **CONSTATE** que l'Entente Goldman prévoit que son approbation est conditionnelle à l'approbation par le Tribunal de l'Ontario et que les termes du présent jugement n'auront aucune force exécutoire à moins que et jusqu'à ce que tel jugement soit rendu en Ontario et que le recours ontarien soit déclaré rejeté contre les Défenderesses qui règlent, sans frais et avec préjudice;

[34] **CONSTATE** qu'un jugement approuvant l'Entente intervenue a été rendu le 13 avril 2017 par la Cour supérieure de justice de l'Ontario;

[35] **DÉCLARE** que, dans l'éventualité où l'Entente Goldman était résiliée conformément à ses termes, le présent jugement devra être déclaré nul et sans effet sur demande subséquente présentée après avis;

[36] **DÉCLARE** qu'à la Date d'entrée en vigueur, par le présent jugement, le Recours du Québec est réglé hors Cour contre les Défenderesses qui règlent;

[37] **LE TOUT** sans frais de justice.



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⁹ « Class Counsel ».

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Date d'audience : 2 mai 2017

Annexe A : Entente Goldman

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ANNEXE A
(Entente Goldman)

CANADIAN FOREX CLASS ACTION NATIONAL SETTLEMENT AGREEMENT

Made as of October 14, 2016

Between

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, CHRISTOPHER STAINES and CHRISTINE BÉLAND

(the "Plaintiffs")

and

THE GOLDMAN SACHS GROUP, INC., GOLDMAN, SACHS & CO., and GOLDMAN SACHS CANADA INC.

(the "Settling Defendants")

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CANADIAN FOREX CLASS ACTION NATIONAL SETTLEMENT AGREEMENT

RECITALS

A. WHEREAS the Proceedings were commenced by the Ontario Plaintiffs in Ontario and the Quebec Petitioner in Quebec;

B. WHEREAS the Proceedings allege, among other things, that the Settling Defendants participated in an unlawful conspiracy to fix the price of currency purchased in the FX Market, and to fix key FX benchmark rates, contrary to Part VI of the *Competition Act*, R.S.C. 1985, c. C-34 and the common law and/or the civil law;

C. WHEREAS, the Settling Defendants have denied and continue to deny each and all of the claims and allegations of wrongdoing made by the Ontario Plaintiffs and the Quebec Petitioner in the Proceedings and all claims and allegations of wrongdoing or liability against it arising out of any of the conduct, statements, acts, or omissions alleged, or that could have been alleged, in the Proceedings;

D. WHEREAS the Plaintiffs, Class Counsel and the Settling Defendants agree that neither this Settlement Agreement nor any statement made in the negotiation thereof shall be deemed or construed to be an admission by or evidence against the Releasees or evidence of the truth of any of the Plaintiffs' allegations against the Releasees, which allegations are expressly denied by the Settling Defendants;

E. WHEREAS the Plaintiffs and Class Counsel have concluded, after due investigation and after carefully considering the relevant circumstances, including, without limitation, the claims asserted in the Proceedings, the legal and factual defences thereto, and the applicable law, that: (1) it is in the best interests of the Settlement Classes to enter into this Settlement Agreement in order to avoid the uncertainties of litigation and to ensure that the benefits reflected herein, including the amount to be paid by the Settling Defendants under this Settlement Agreement and the cooperation to be provided to the Plaintiffs by the Settling Defendants under this Settlement Agreement, are obtained for the Settlement Classes; and (2) the settlement set forth in this Settlement Agreement is fair, reasonable, and in the best interests of the classes they seek to represent;

authorization shall not derogate from the respective rights of the Parties in the event that this Settlement Agreement is not approved, is terminated or otherwise fails to take effect for any reason;

M. WHEREAS the Plaintiffs assert that they are adequate class representatives for the classes they seek to represent and will seek to be appointed representative plaintiffs in their respective Proceedings; and

N. WHEREAS the Parties intend to pursue the approval of this Settlement Agreement first through the Ontario Court and second through the Quebec Court;

NOW THEREFORE, in consideration of the covenants, agreements and releases set forth herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, it is agreed by the Parties that the Ontario Action be settled and dismissed as to the Settling Defendants only and the Quebec Action be declared settled out of court as against the Settling Defendants, all without costs as to the Plaintiffs, the classes they seek to represent or the Settling Defendants, subject to the approval of the Courts, on the following terms and conditions:

SECTION 1 - DEFINITIONS

For the purposes of this Settlement Agreement only, including the recitals and schedules hereto:

- (1) *Administration Expenses* means all fees, disbursements, expenses, costs, taxes and any other amounts incurred or payable by the Plaintiffs, Class Counsel or otherwise for the approval, implementation and operation of this Settlement Agreement, including the costs of notices, but excluding Class Counsel Fees and Class Counsel Disbursements.
- (2) *Class Counsel* means Ontario Counsel and Quebec Counsel.
- (3) *Class Counsel Disbursements* include the disbursements, administration expenses, and applicable taxes incurred by Class Counsel in the prosecution of the Proceedings, as well as any adverse costs awards issued against the Plaintiffs in any of the Proceedings.
- (4) *Class Counsel Fees* means the fees of Class Counsel, and any applicable taxes or charges thereon, including any amounts payable as a result of the Settlement Agreement by Class

(14) *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.

(15) *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.

(16) *FX Market* means the market for the exchange of currencies, FX Trading, transactions in FX Instruments and/or FX Exchange-Traded Instruments.

(17) *FX Trading* means the trading of FX Instruments and FX Exchange-Traded 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 or FX Exchange-Traded Instruments.

(18) *Investment Vehicles* means any investment company or pooled investment fund, including, but not limited to, mutual fund families, exchange-traded funds, fund of funds and hedge 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.

(19) *Non-Settling Defendants* means any Defendant that is not a Settling Defendant or any Defendant that has not entered into a settlement with the Plaintiffs in the Proceeding whether or not such settlement agreement is in existence at the Date of Execution, and includes any Defendant that terminates its own settlement agreement in accordance with its terms or whose settlement otherwise fails to take effect for any reason, whether or not such settlement agreement is in existence at the date of execution.

(20) *Ontario Action* means the Ontario Action as defined in Schedule A.

(21) *Ontario Counsel* means Koskie Minsky LLP, Sotos LLP, Siskinds LLP, and Camp Fiorante Matthews Mogergerman LLP.

(22) *Ontario Court* means the Ontario Superior Court of Justice.

(35) *Quebec Settlement Class* means the settlement class in respect of the Quebec Action as defined in Schedule A.

(36) *Released Claims* mean any and all manner of claims, including "Unknown Claims," as defined below, causes of action, cross-claims, counter-claims, charges, liabilities, demands, judgments, suits, obligations, debts, setoffs, rights of recovery, or liabilities for any obligations of any kind whatsoever (however denominated), whether class or individual, in law or equity or arising under constitution, statute, regulation, ordinance, contract, or otherwise in nature, for fees, costs, penalties, fines, debts, expenses, lawyers' fees, disgorgement, restitution and damages, whenever incurred, and liabilities of any nature whatsoever (including joint and several), known or unknown, suspected or unsuspected, asserted or unasserted, arising from or relating in any way to any conduct alleged or that could have been alleged in and arising from the factual predicate of the Proceedings, or any amended complaint or pleading therein, from the beginning of time until the Effective Date, which shall be deemed to include but not be limited to: (i) communications related to FX Instruments, FX Trading, or FX Benchmark Rates, between a Released Party and any other FX dealer or any other participant in the conspiracy alleged in the Proceedings through chat rooms, instant messages, email, or other means; (ii) agreements, arrangements, or understandings related to FX Instruments, FX Trading, or FX Benchmark Rates, between a Released Party and any other FX dealer or any other participant in the conspiracy alleged in the Proceedings through chat rooms, instant messages, email, or other means; (iii) the sharing or exchange of customer information between a Released Party and any other FX dealer or any other participant in the conspiracy alleged in the Proceedings - including but not limited to customer identity, trading patterns, transactions, net positions or orders, stop losses or barrier options, pricing, or spreads related to FX Instruments, FX Trading, or FX Benchmark Rates; (iv) the establishment, calculation, manipulation, or use of the WM/Reuters fixing rates, including the 4:00 p.m. London closing spot rates, and trading that may impact such rates; (v) the establishment, calculation, manipulation, or use of the European Central Bank FX reference rates, including the ECB rate set at 1:15 p.m. London time; (vi) the establishment, calculation, manipulation, or use of the CME daily settlement rates; (vii) the establishment, calculation, manipulation, or use of any other FX benchmarks, including benchmark fixing rates, benchmark settlement rates, or benchmark reference rates; (viii) the establishment, calculation, communication, manipulation, or use of the price, spread, or rate of any FX Instrument or FX Exchange-Traded Instrument; and (ix) the sharing or exchange of

- (44) *Settlement Class Members* means a member of a Settlement Class.
- (45) *Settling Defendants* means The Goldman Sachs Group, Inc., Goldman, Sachs & Co., and Goldman Sachs Canada Inc.
- (46) *Settling Defendants' Claims* means claims, including "Unknown Claims" as defined below, that any Releasee may have against a Releasor or Class Counsel relating to the institution, prosecution, or settlement of the Action.
- (47) *Trust Account* means a guaranteed investment vehicle, liquid money market account or equivalent security with a rating equivalent to or better than that of a Canadian Schedule I bank (a bank listed in Schedule I of the *Bank Act*, S.C. 1991, c. 46) held at a Canadian financial institution under the control of Ontario Counsel or the Claims Administrator, once appointed, for the benefit of the Settlement Class Members, as provided for in this Settlement Agreement.
- (48) *Unknown Claims* means any and all Released Claims against the Releasees which Releasors do not know or suspect to exist in his, her, or its favour as of the Effective Date, and any Settling Defendants' Claims against Releasors which Releasees do not know or suspect to exist in his, her, or its favour as of the Effective Date, which if known by the Releasors or Releasees might have affected his, her, or its decision(s) with respect to the settlement. The Releasors and Releasees may hereafter discover facts other than or different from those which he, she, or it now knows or believes to be true with respect to the subject matter of the Released Claims and Settling Defendants' Claims. Nevertheless, Class Plaintiffs and the Releasees shall expressly, fully, finally, and forever settle and release, and each Class Member, upon the Effective Date, shall be deemed to have, and by operation of the Final Order shall have, fully, finally, and forever settled and released, any and all Released Claims and Settling Defendants' Claims, whether or not concealed or hidden, without regard to the subsequent discovery or existence of such different or additional facts. Class Plaintiffs and the Releasees acknowledge, and Settlement Class Members shall be deemed to have acknowledged, that the inclusion of "Unknown Claims" in the definition of Released Claims and Settling Defendants' Claims was separately bargained for and was a key element of the Settlement Agreement.
- (49) *U.S. Litigation* 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

(c) the deadline for the Settling Defendants to give notice of termination of this Settlement Agreement pursuant to Section 6.1(2) has passed.

(2) The Ontario order seeking approval of this Settlement Agreement shall be substantially in the form attached as Schedule C. The Quebec order seeking approval of this Settlement Agreement shall be agreed upon by the Parties and shall, where possible, mirror the substance and form of the Ontario order.

(3) The Plaintiffs can elect to request that the Courts hold joint hearings seeking certification or authorization and approval of this Settlement Agreement pursuant to the Canadian Bar Association's Canadian Judicial Protocol for the Management of Multijurisdictional Class Actions. The Settling Defendants will not oppose any such request.

(4) This Settlement Agreement shall only become final on the Effective Date.

2.4 Pre-Motion Confidentiality

(1) Until the first of the motions required by Section 2.2 is brought, the Parties shall keep all of the terms of the Settlement Agreement confidential and shall not disclose them without the prior consent of counsel for the Settling Defendants and Class Counsel, as the case may be, except as required for the purposes of financial reporting, the preparation of financial records (including tax returns and financial statements), as necessary to give effect to its terms, or as otherwise required by law.

SECTION 3 - SETTLEMENT BENEFITS

3.1 Payment of Settlement Amount

(1) Within ten (10) days of the orders by the Courts approving the notices described in Section 11.1(1) and certifying or authorizing the Proceedings for settlement purposes, the Settling Defendants shall pay the Settlement Amount to Class Counsel, for deposit into the Trust Account.

(2) Payment of the Settlement Amount shall be made by wire transfer. At least thirty (30) days prior to the Settlement Amount becoming due, Class Counsel will provide, in writing, the following information necessary to complete the wire transfers: name of bank, address of bank,

Amount or pay any taxes on the monies in the Trust Account, unless this Settlement Agreement is terminated, in which case the interest earned on the Settlement Amount in the Trust Account or otherwise shall be paid to the Settling Defendants who, in such case, shall be responsible for the payment of all taxes on such interest not previously paid by Class Counsel.

3.3 Intervention in the U.S. Litigation

(1) The Settling Defendants and other Releasees shall not oppose any application that may be brought by or on behalf of the Plaintiffs to intervene in the U.S. Litigation in order to gain access to discovery documents and other documents and information, subject to a protective order acceptable to the Settling Defendants, that are relevant to the Proceedings and is not otherwise inconsistent with the terms of this Settlement Agreement, including Section 4.1(11). It is understood and agreed that neither the Settling Defendants nor the other Releasees have any obligation to bring or otherwise participate in such an application.

SECTION 4 – COOPERATION

4.1 Extent of Cooperation

(1) To the extent not previously provided to the Plaintiffs and subject to the limitations set forth in this Settlement Agreement, the Settling Defendants agree to provide the cooperation set out in this section of the Settlement Agreement, provided, however, that the Settling Defendants shall not be required to provide cooperation in violation of any law or in contravention of the terms of any protective order in the U.S. Litigation or similar order(s) in the Proceedings or an instruction from the United States Department of Justice (“DOJ”) to the contrary or with regard to conduct outside the scope of the Released Claims.

(2) All cooperation shall be coordinated in such a manner so that all unnecessary duplication and expense is avoided.

(3) Subject to the foregoing paragraphs, the Settling Defendants will provide Class Plaintiffs and Class Members the following cooperation:

- (a) The Settling Defendants shall make best efforts for the Plaintiffs to participate in any evidentiary proffers that occur in the U.S. Litigation pursuant to the U.S. Settlement Agreements.

- (ii) provide reasonable assistance to Class Counsel in understanding the transactional data produced by the Settling Defendants, including a reasonable number of written and/or telephonic communications with Class Counsel and/or the Plaintiffs' experts;
- (iii) provide electronic copies of any documents (as defined in Rule 30.01 of the *Ontario Rules of Civil Procedure*) produced by the Settling Defendants in the U.S. Litigation, including any documents produced by the Settling Defendants pursuant to the U.S. Settlement Agreements, and any pre-existing translations of those documents produced in the U.S. Litigation; and provide to the extent relevant to the allegations in the Proceedings copies of any additional documents produced at any future date by the Settling Defendants in the U.S. Litigation, within sixty (60) business days of said production in the U.S. Litigation (in the format produced therein);
- (iv) provide electronic copies of transcripts of all depositions, if any, of current or former employees, officers or directors of the Releasees, including all exhibits thereto, taken in the U.S. Litigation; and to the extent relevant to the allegations in the Proceedings, provide electronic copies of any additional depositions of current or former employees, officers or directors of the Releasees, including all exhibits thereto, taken at any future date in the U.S. Litigation within ten (10) business days of said transcripts becoming available; and

(4) The Settling Defendants shall not object to the Plaintiffs' participation in any evidentiary proffers and/or interviews of the Settling Defendants' representatives that occur in the U.S. Litigation pursuant to the U.S. Settlement Agreements. The Settling Defendants shall, where possible, provide notice to Class Counsel ten (10) days before the interview of representatives of the Settling Defendants.

expenses incurred by any such person in connection with fulfilling the Settling Defendants' cooperation obligations. Such reimbursement of travel expenses as set forth herein shall not exceed CAD\$10,000 per person per event requiring travel. In no event shall Class Counsel be responsible for reimbursing such persons for time or services rendered.

(7) Nothing in this Settlement Agreement shall be construed to require the Settling Defendants to perform any act, including the transmittal or disclosure of any documents or information, which would violate the law, including without limiting the generality of the foregoing, any privacy laws of this or any jurisdiction.

(8) Nothing in this Settlement Agreement shall require, or shall be construed to require, the Settling Defendants or any representative or employee of the Settling Defendants to disclose or produce any documents or information prepared by or for counsel for the Settling Defendants, or that is not within the possession, custody or control of the Settling Defendants, or to disclose or produce any documents or information in breach of any order, regulatory directive, rule or law of this or any jurisdiction, or subject to solicitor-client privilege, litigation privilege, joint defence privilege or any other privilege, doctrine, or law, or to disclose or produce any information or documents they obtained on a privileged or co-operative basis from any party to any action or proceeding who is not a Releasee.

(9) If any documents protected by any privilege and/or any privacy law or other rule or law of this or any applicable jurisdiction are accidentally or inadvertently disclosed or produced, such documents shall be promptly returned to the Settling Defendants and the documents and the information contained therein shall not be disclosed or used directly or indirectly, except with the express written permission of the Settling Defendants, and the production of such documents shall in no way be construed to have waived in any manner any privilege, doctrine, law, or protection attached to such documents.

(10) The Settling Defendants' obligations to cooperate as particularized in this Section shall not be affected by the release provisions contained in Section 6 of this Settlement Agreement. Unless this Settlement Agreement is not approved, is terminated or otherwise fails to take effect for any reason, the Settling Defendants' obligations to cooperate shall cease at the date of final judgment in the Proceedings against all Defendants.

4.2 Limits on Use of Documents

(1) It is understood and agreed that all documents and information made available or provided by the Settling Defendants to the Plaintiffs and Class Counsel under this Settlement Agreement shall be used only in connection with the prosecution of the claims in the Proceedings, and shall not be used directly or indirectly for any other purpose, except to the extent that the documents or information are publicly available. The Plaintiffs and Class Counsel agree they will not disclose the documents and information provided by the Settling Defendants beyond what is reasonably necessary for the prosecution of the Proceedings or as otherwise required by law, except to the extent that the documents or information are publicly available. Subject to the foregoing, Class Counsel shall take reasonable precautions to ensure and maintain the confidentiality of such documents and information, and of any work product of Class Counsel that discloses such documents and information. Class Counsel shall treat any documents received from the Settling Defendants as highly confidential. The Settling Defendants' obligations with respect to cooperation, including the timing and substance of cooperation, shall be subject to such limitations as are ordered by the Court.

(2) If, in the course of the Proceedings, the Plaintiffs, the Settlement Classes or Class Counsel, acting reasonably, conclude that it is reasonably necessary to disclose or provide information or documents obtained from the Settling Defendants which are not otherwise publicly available, or to file such information or documents in the Proceedings, and such disclosure is not otherwise prohibited by this Settlement Agreement, then the Plaintiffs, the Settlement Classes or Class Counsel shall provide the Settling Defendants with an advance written description of the documents or information to be disclosed or provided at least sixty (60) days in advance of the proposed disclosure, in order that the Settling Defendants may obtain a confidentiality order, or take such other steps as they deem necessary, to protect their interests in respect of such information or documents being disclosed or produced. In the event the Settling Defendants take such steps, neither the Plaintiffs, the Settlement Classes or Class Counsel shall oppose reasonable positions taken by the Settling Defendants.

SECTION 5 – OPTING-OUT

5.1 Opt-Outs

- (f) any orders approving this Settlement Agreement made by the Ontario Court or the Quebec Court do not become Final Orders.

(2) The Settling Defendants may terminate this Settlement Agreement in their sole discretion, acting reasonably, if Persons who have excluded themselves from the Proceeding by opting-out pursuant to prior settlements (referred to in Section 5) would likely have been eligible to receive collectively, but for their exclusion, a material part of the distribution from the Settlement Amount. In the event that the Settling Defendants intend to exercise this termination right, they will provide written notice of that intention to Class Counsel within thirty (30) days following receipt of the report referred to in Section 5.1(4) above.

(3) Except as provided for in Section 6.4, if the Settlement Agreement is terminated, the Settlement Agreement shall be null and void and have no further force or effect, and shall not be binding on the Parties, and shall not be used as evidence or otherwise in any litigation.

(4) Any order, ruling or determination made by any Court with respect to:

- (a) Class Counsel Fees or Class Counsel Disbursements; or
- (b) the Distribution Protocol,

shall not be deemed to be a material modification of all, or a part, of this Settlement Agreement and shall not provide any basis for the termination of this Settlement Agreement.

6.2 If Settlement Agreement is Terminated

(1) If this Settlement Agreement is not approved, is terminated in accordance with its terms or otherwise fails to take effect for any reason:

- (a) no motion to certify or authorize any of the Proceedings as a class proceeding on the basis of this Settlement Agreement, or to approve this Settlement Agreement, which has not been decided, shall proceed;
- (b) any order certifying or authorizing a Proceeding as a class proceeding on the basis of the Settlement Agreement or approving this Settlement Agreement shall be set aside and declared null and void and of no force or effect, and anyone shall be estopped from asserting otherwise;

6.4 Survival of Provisions After Termination

(1) If this Settlement Agreement is terminated or otherwise fails to take effect for any reason, the provisions of Sections 3.2(3), 4.1(5)(b), 6.1, 6.2, 6.3, 6.4, 9.1, 9.2, 10(4), 11.1(2) and 12.2(3), and the definitions and Schedules applicable thereto shall survive the termination and continue in full force and effect. The definitions and Schedules shall survive only for the limited purpose of the interpretation of Sections 3.2(3), 4.1(5)(b), 6.1, 6.2, 6.3, 6.4, 9.1, 9.2, 10(4) 11.1(2) and 12.2(3) within the meaning of this Settlement Agreement, but for no other purposes. All other provisions of this Settlement Agreement and all other obligations pursuant to this Settlement Agreement shall cease immediately.

SECTION 7 - RELEASES AND DISMISSALS

7.1 Release of Releasees

(1) The obligations incurred pursuant to this Settlement Agreement shall be in full and final disposition of: (i) the Proceedings against the Settling Defendants; and (ii) any and all Released Claims as against all Released Parties.

(2) Upon the Effective Date, subject to Section 7.3, each of the Releasers: (i) shall be deemed to have, and by operation of the Final Orders, shall have, fully, finally, and forever waived, released, relinquished, and discharged all Released Claims against the Released Parties, regardless of whether such Releaser executes and delivers a proof of claim and release form; (ii) shall forever be enjoined from prosecuting in any forum any Released Claim against any of the Released Parties; and (iii) agrees and covenants not to sue any of the Released Parties on the basis of any Released Claims or to assist any third party in commencing or maintaining any suit against any Released Party related in any way to any Released Claims.

7.2 Covenant Not To Sue

(1) Upon the Effective Date, and notwithstanding Section 7.1, for any Settlement Class Members resident in any province or territory where the release of one tortfeasor is a release of all other tortfeasors, the Releasers do not release the Releasees but instead covenant and undertake not to make any claim in any way or to threaten, commence, participate in or continue any proceeding in any jurisdiction against the Releasees in respect of or in relation to the Released Claims.

- (a) to the extent such claims are recognized at law, all claims for contribution, indemnity or other claims over, whether asserted, unasserted or asserted in a representative capacity, inclusive of interest, taxes and costs, relating to the Released Claims, which were or could have been brought in the Proceedings, or otherwise, by any Non-Settling Defendant, any named or unnamed co-conspirator that is not a Releasee or any other Person or party against a Releasee, or by a Releasee against any Non-Settling Defendant or any named or unnamed co-conspirator that is not a Releasee or any other person or party, are barred, prohibited and enjoined in accordance with the terms of this Section (unless such claim is made in respect of a claim by a Person who has validly opted out of the Proceedings);
- (b) if the Ontario Court ultimately determines that there is a right of contribution and indemnity or other claim over, whether in equity or in law, by statute or otherwise,
 - (i) the Ontario Plaintiffs and Ontario Settlement Class Members shall not be entitled to claim or recover from the Non-Settling Defendants and/or named or unnamed co-conspirators and/or any other Person or party that is not a Releasee that portion of any damages (including punitive damages, if any), restitutionary award, disgorgement of profits, interest and costs (including investigative costs claimed pursuant to section 36 of the *Competition Act*) that corresponds to the Proportionate Liability of the Releasees proven at trial or otherwise;
 - (ii) the Ontario Plaintiffs and Ontario Settlement Class Members shall limit their claims against the Non-Settling Defendants and/or named or unnamed co-conspirators and/or any other Person or party that is not a Releasee to include, and shall be entitled to recover from the Non-Settling Defendants and/or named or unnamed co-conspirators and/or any other Person or party that is not a Releasee, only such claims for damages (including punitive damages, if any), restitutionary award, disgorgement of profits, costs, and interest attributable to the aggregate of the several liability of the Non-Settling Defendants and/or named or unnamed co-conspirators and/or any other Person or party that is not a Releasee to the Ontario Plaintiffs and Ontario Settlement Class Members, if any, and, for greater certainty, the Ontario Settlement Class Members shall be entitled to claim and recover on a joint and several basis as between the Non-Settling Defendants and/or named or unnamed co-conspirators and/or any other Person or party that is not a Releasee, to the extent provided by law; and

(2) The Parties acknowledge that the waiver or renunciation of solidarity shall be considered a material term of the Settlement Agreement and the failure of any Court to approve the order contemplated herein shall give rise to a right of termination pursuant to Section 6.1 of the Settlement Agreement.

SECTION 9 - EFFECT OF SETTLEMENT

9.1 No Admission of Liability

(1) The Plaintiffs and the Releasees expressly reserve all of their rights if the Settlement Agreement is not approved, is terminated, or otherwise fails to take effect for any reason. Further, whether or not the Settlement Agreement is finally approved, is terminated, or otherwise fails to take effect for any reason, this Settlement Agreement and anything contained herein, and any and all negotiations, documents, discussions and proceedings associated with this Settlement Agreement, and any action taken to carry out this Settlement Agreement, shall not be deemed, construed, or interpreted to be an admission of any violation of any statute or law, or of any wrongdoing or liability by the Releasees, or of the truth of any of the claims or allegations contained in the Proceedings, or any other pleading filed by the Plaintiffs.

9.2 Agreement Not Evidence

(1) The Parties agree that, whether or not it is terminated, this Settlement Agreement and anything contained herein, and any and all negotiations, documents, discussions and proceedings associated with this Settlement Agreement, and any action taken to carry out this Settlement Agreement, shall not be referred to, offered as evidence or received in evidence in any pending or future civil, criminal or administrative action or proceeding, except in a proceeding to approve and/or enforce this Settlement Agreement, to defend against the assertion of Released Claims, as necessary in any insurance-related proceeding, or as otherwise required by law.

9.3 No Further Litigation

(1) No Class Counsel, nor anyone currently or hereafter employed by or a partner with Class Counsel, may directly or indirectly participate or be involved in or in any way assist with respect to any claim made or action commenced by any Person which relates to or arises from the Released Claims, except in relation to the continued prosecution of the Proceedings against any Non-Settling Defendant or unnamed co-conspirators that are not Releasees or, if the Proceedings

Courts' final approval, if the Courts' approval is reversed or vacated on appeal, if this Settlement Agreement is terminated as provided herein, or if the settlement set forth in this Settlement Agreement otherwise fails to close, this agreement as to certification or authorization of the settlement classes becomes null and void *ab initio*, and this Settlement Agreement or any other settlement-related statement may not be cited regarding certification or authorization of the settlement class, or in support of an argument for certifying or authorizing a class for any purpose related to the Proceedings.

SECTION 11 - NOTICE TO SETTLEMENT CLASSES

11.1 Notices Required

- (1) The proposed Settlement Classes shall be given a single notice of hearings at which the Courts will be asked to approve the Settlement Agreement and Class Counsel Fees.
- (2) If this Settlement Agreement is not approved, is terminated, or otherwise fails to take effect, the proposed Settlement Classes shall be given notice of such event.

11.2 Form and Distribution of Notices

- (1) The notices shall be in a form agreed upon by the Parties and approved by the Courts or, if the Parties cannot agree on the form of the notices, the notices shall be in a form ordered by the Courts.
- (2) The notices shall be disseminated by a method agreed upon by the Parties and approved by the Courts or, if the Parties cannot agree on a method for disseminating the notices, the notices shall be disseminated by a method ordered by the Courts.

SECTION 12 - ADMINISTRATION AND IMPLEMENTATION

12.1 Mechanics of Administration

- (1) Except to the extent provided for in this Settlement Agreement, the mechanics of the implementation and administration of this Settlement Agreement shall be determined by the Courts on motions brought by Class Counsel.

6.2(1)(d) and no record of the information so provided shall be retained by Class Counsel in any form whatsoever.

(4) The Settling Defendants shall bear no liability with respect to the completeness or accuracy of the information provided pursuant to this Section 12.2.

**SECTION 13 – DISTRIBUTION OF THE SETTLEMENT AMOUNT
AND ACCRUED INTEREST**

13.1 Distribution Protocol

(1) At a time wholly within the discretion of Class Counsel, but on notice to the Settling Defendants, Class Counsel will bring motions seeking orders from the Courts approving the Distribution Protocol.

13.2 No Responsibility for Administration or Fees

(1) The Settling Defendants shall not have any responsibility, financial obligations or liability whatsoever with respect to the investment, distribution or administration of monies in the Trust Account including, but not limited to, Administration Expenses and Class Counsel Fees.

**SECTION 14 – CLASS COUNSEL FEES, DISBURSEMENTS AND ADMINISTRATION
EXPENSES**

(1) The Settling Defendants shall not be liable for any fees, disbursements or taxes of any of Class Counsel's, the Plaintiffs' or Settlement Class Members' respective lawyers, experts, advisors, agents, or representatives.

(2) Class Counsel shall pay the costs of the notices required by Section 11 and any costs of translation required by Section 15.12 from the Trust Account, as they become due. The Releasees shall not have any responsibility for the costs of the notices or translation.

(3) Class Counsel may seek the Courts' approval to pay Class Counsel Disbursements and Class Counsel Fees contemporaneous with seeking approval of this Settlement Agreement. Class Counsel Disbursements and Class Counsel Fees shall be reimbursed and paid solely out of the Trust Account after the Effective Date. No Class Counsel Fees shall be paid from the Trust Account prior to the Effective Date.

15.4 Computation of Time

(1) In the computation of time in this Settlement Agreement, except where a contrary intention appears,

- (a) where there is a reference to a number of days between two events, the number of days shall be counted by excluding the day on which the first event happens and including the day on which the second event happens, including all calendar days; and
- (b) only in the case where the time for doing an act expires on a holiday as "holiday" is defined in the *Rules of Civil Procedure*, RRO 1990, Reg 194, the act may be done on the next day that is not a holiday.

15.5 Ongoing Jurisdiction

(1) Each of the Courts shall retain exclusive jurisdiction over the Proceeding commenced in its jurisdiction, the Parties to that Proceeding and the Class Counsel Fees in that Proceeding.

(2) No Party shall ask a Court to make any order or give any direction in respect of any matter of shared jurisdiction unless that order or direction is conditional upon a complementary order or direction being made or given by the other Court(s) with which it shares jurisdiction over that matter.

(3) Notwithstanding Section 15.5(1) and 15.5(2), the Ontario Court shall exercise jurisdiction with respect to implementation, administration, interpretation and enforcement of the terms of this Settlement Agreement, and the Plaintiffs, Settlement Class Members and Settling Defendants attorn to the jurisdiction of the Ontario Court for such purposes. Issues related to the administration of this Settlement Agreement, the Trust Account, and other matters not specifically related to the Quebec Action shall be determined by the Ontario Court.

15.6 Governing Law

(1) Subject to Section 15.6(2), this Settlement Agreement shall be governed by and construed and interpreted in accordance with the laws of the Province of Ontario.

provision to be construed against the drafter of this Settlement Agreement shall have no force and effect. The Parties further agree that the language contained in or not contained in previous drafts of this Settlement Agreement, or any agreement in principle, shall have no bearing upon the proper interpretation of this Settlement Agreement.

15.12 Language

(1) The Parties acknowledge that they have required and consented that this Settlement Agreement and all related documents be prepared in English; *les parties reconnaissent avoir exigé que la présente convention et tous les documents connexes soient rédigés en anglais.* Nevertheless, if required to by the Courts, Class Counsel and/or a translation firm selected by Class Counsel shall prepare a French translation of the Settlement Agreement, the cost of which shall be paid from the Settlement Amount. In the event of any dispute as to the interpretation or application of this Settlement Agreement, only the English version shall govern.

15.13 Transaction

(1) The present Settlement Agreement constitutes a transaction in accordance with Articles 2631 and following of the *Civil Code of Quebec*, and the Parties are hereby renouncing any errors of fact, of law and/or of calculation.

15.14 Recitals

(1) The recitals to this Settlement Agreement are true and form part of the Settlement Agreement.

15.15 Schedules

(1) The schedules annexed hereto form part of this Settlement Agreement.

15.16 Acknowledgements

(1) Each of the Parties hereby affirms and acknowledges that:

- (a) he, she or a representative of the Party with the authority to bind the Party with respect to the matters set forth herein has read and understood the Settlement Agreement;

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For the Settling Defendants:

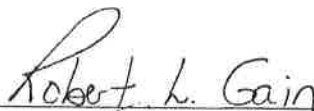
Robert Kwinter
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Suite 4000, Commerce Court West
Toronto, ON M5L 1A9
Tel: 416.863.3283
Fax: 416.863.2653
Email: robert.kwinter@blakes.com

15.19 Date of Execution

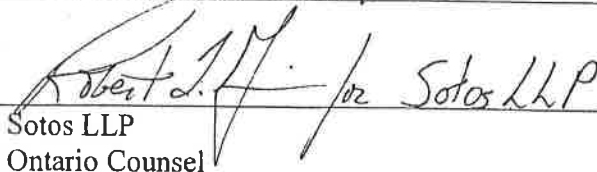
(1) The Parties have executed this Settlement Agreement as of the date on the cover page.

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 on their own behalf and on behalf of the Ontario Settlement Class, by their counsel:

Name of Authorized Signatory:



Signature of Authorized Signatory:


Sotos LLP
Ontario Counsel

SCHEDULE "A"

Proceedings

Court and File No.	Plaintiffs' Counsel	Plaintiff	Named Defendants	Settlement Class
Ontario Action				
Ontario Superior Court of Justice Court File No. CV-15-536174	Sotos LLP, Koskie Minsky LLP, and Siskinds LLP	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	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, 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., JPMORGAN CHASE BANK, N.A., 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, UBS AG, UBS SECURITIES LLC, and UBS BANK (CANADA)	All Persons in Canada who, between January 1, 2003 and December 31, 2013, entered into an FX Instrument ^[1] 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. Excluded from the class are the defendants, their parent companies, subsidiaries, and affiliates; provided, however, that Investment Vehicles shall not be excluded from the Settlement Class.
				[1] "FX Instruments" includes FX spot transactions, outright forwards, FX swaps, FX options, FX futures contracts, options on FX futures contracts, and other instruments traded in the FX Market.

SCHEDULE "B"

Court File No. CV-15-536174CP

**ONTARIO
SUPERIOR COURT OF JUSTICE**

The Honourable) _____, the _____ day
Justice Perell) of _____, 2016

BETWEEN:

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, 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., JPMORGAN CHASE BANK, N.A., 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, UBS AG, UBS SECURITIES LLC, and UBS BANK (CANADA)

Defendants

Proceeding under the *Class Proceedings Act, 1992*

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. Excluded from the class are the defendants, their parent companies, subsidiaries, and affiliates; provided, however, that Investment Vehicles shall not be excluded from the Settlement Class.

[1] "FX Instruments" includes FX spot transactions, outright forwards, FX swaps, FX options, FX futures contracts, options on FX futures contracts, and other instruments traded in the FX Market.

6. **THIS COURT ORDERS** that 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 are appointed as the representative plaintiffs for the Ontario Settlement Class.
7. **THIS COURT ORDERS** that the following issue is common to the Ontario Settlement Class:

Did the Settling Defendants conspire to fix, raise, maintain, stabilize, control, or enhance unreasonably the prices of currency purchased in the FX Market?
8. **THIS COURT ORDERS** that this Order, any reason given by the Court in connection with it and the certification of the Ontario Action as against the Settling Defendants for settlement purposes pursuant to this Order, including, without limitation, the definition of the Ontario Settlement Class and the Common Issue, are without prejudice to the rights and defences of the Non-Settling Defendants in connection with the ongoing Ontario Action and, without restricting the generality of the foregoing, may not be relied on by any person to establish jurisdiction, the criteria for certification (including class definition) or the existence or elements of the causes of action asserted in the Ontario Action, as against the Non-Settling Defendants.
9. **THIS COURT ORDERS** that this Order, including the Settlement Agreement, is binding upon each member of the Ontario Settlement Class including those Persons who are minors or mentally incapable and the requirements of Rules 7.04(1) and 7.08(4) of the *Rules of Civil Procedure* are dispensed with in respect of the Ontario Action.

SCHEDULE "C"

Court File No. CV-15-536174CP

**ONTARIO
SUPERIOR COURT OF JUSTICE**

The Honourable) _____, the _____ day
Justice Perell) of _____, 2016

BETWEEN:

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, 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., JPMORGAN CHASE BANK, N.A., 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, UBS AG, UBS SECURITIES LLC, and UBS BANK (CANADA)

Defendants

Proceeding under the *Class Proceedings Act, 1992*

constitution, statute, regulation, ordinance, contract, or otherwise in nature, for fees, costs, penalties, fines, debts, expenses, lawyers' fees, disgorgement, restitution and damages, whenever incurred, and liabilities of any nature whatsoever (including joint and several), known or unknown, suspected or unsuspected, asserted or unasserted, arising from or relating in any way to any conduct alleged or that could have been alleged in and arising from the factual predicate of the Proceedings, or any amended complaint or pleading therein, from the beginning of time until the Effective Date, which shall be deemed to include but not be limited to: (i) communications related to FX Instruments, FX Trading, or FX Benchmark Rates, between a Released Party and any other FX dealer or any other participant in the conspiracy alleged in the Proceedings through chat rooms, instant messages, email, or other means; (ii) agreements, arrangements, or understandings related to FX Instruments, FX Trading, or FX Benchmark Rates, between a Released Party and any other FX dealer or any other participant in the conspiracy alleged in the Proceedings through chat rooms, instant messages, email, or other means; (iii) the sharing or exchange of customer information between a Released Party and any other FX dealer or any other participant in the conspiracy alleged in the Proceedings - including but not limited to customer identity, trading patterns, transactions, net positions or orders, stop losses or barrier options, pricing, or spreads related to FX Instruments, FX Trading, or FX Benchmark Rates; (iv) the establishment, calculation, manipulation, or use of the WM/Reuters fixing rates, including the 4:00 p.m. London closing spot rates, and trading that may impact such rates; (v) the establishment, calculation, manipulation, or use of the European Central Bank FX reference rates, including the ECB rate set at 1:15 p.m. London time; (vi) the establishment, calculation, manipulation, or use of the CME daily settlement rates; (vii) the establishment, calculation, manipulation, or use of any other FX benchmarks, including benchmark fixing rates, benchmark settlement rates, or benchmark reference rates; (viii) the establishment, calculation, communication, manipulation, or use of the price, spread, or rate of any FX Instrument or FX Exchange-Traded Instrument; and (ix) the sharing or exchange of customer information or confidential information in the possession of the Settling Defendants between a Released Party and any other FX dealer or any other

the Released Claims and Settling Defendants' Claims. Nevertheless, Class Plaintiffs and the Releasees shall expressly, fully, finally, and forever settle and release, and each Class Member, upon the Effective Date, shall be deemed to have, and by operation of the Final Order shall have, fully, finally, and forever settled and released, any and all Released Claims and Settling Defendants' Claims, whether or not concealed or hidden, without regard to the subsequent discovery or existence of such different or additional facts. Class Plaintiffs and the Releasees acknowledge, and Settlement Class Members shall be deemed to have acknowledged, that the inclusion of "Unknown Claims" in the definition of Released Claims and Settling Defendants' Claims was separately bargained for and was a key element of the Settlement Agreement.

4. **THIS COURT ORDERS** that the Settlement Agreement is fair, reasonable and in the best interests of the Ontario Settlement Class.
5. **THIS COURT ORDERS** that the Settlement Agreement is hereby approved pursuant to s. 29 of the *Class Proceedings Act, 1992* and shall be implemented and enforced in accordance with its terms.
6. **THIS COURT ORDERS** that, upon the Effective Date, each member of the Ontario Settlement Class shall consent and shall be deemed to have consented to the dismissal as against the Releasees of any Other Actions he, she or it has commenced, without costs and with prejudice.
7. **THIS COURT ORDERS** that, upon the Effective Date, each Other Action commenced in Ontario by any member of the Ontario Settlement Class shall be and is hereby dismissed against the Releasees, without costs and with prejudice.
8. **THIS COURT ORDERS** that, upon the Effective Date, subject to paragraph 10, each Releasor has released and shall be conclusively deemed to have forever and absolutely released the Releasees from the Released Claims.
9. **THIS COURT ORDERS** that, upon the Effective Date, the Releasors shall not now or hereafter institute, continue, maintain or assert, either directly or indirectly, whether in Canada or elsewhere, on their own behalf or on behalf of any class or any other Person,

- (i) the Ontario Plaintiffs and Ontario Settlement Class Members shall not be entitled to claim or recover from the Non-Settling Defendants and/or named or unnamed co-conspirators and/or any other Person or party that is not a Releasee that portion of any damages (including punitive damages, if any), restitutionary award, disgorgement of profits, interest and costs (including investigative costs claimed pursuant to section 36 of the *Competition Act*) that corresponds to the Proportionate Liability of the Releasees proven at trial or otherwise;
- (ii) the Ontario Plaintiffs and Ontario Settlement Class Members shall limit their claims against the Non-Settling Defendants and/or named or unnamed co-conspirators and/or any other Person or party that is not a Releasee to include, and shall be entitled to recover from the Non-Settling Defendants and/or named or unnamed co-conspirators and/or any other Person or party that is not a Releasee, only such claims for damages (including punitive damages, if any), restitutionary award, disgorgement of profits, costs, and interest attributable to the aggregate of the several liability of the Non-Settling Defendants and/or named or unnamed co-conspirators and/or any other Person or party that is not a Releasee to the Ontario Plaintiffs and Ontario Settlement Class Members, if any, and, for greater certainty, the Ontario Settlement Class Members shall be entitled to claim and recover on a joint and several basis as between the Non-Settling Defendants and/or named or unnamed co-conspirators and/or any other Person or party that is not a Releasee, to the extent provided by law; and
- (iii) this Court shall have full authority to determine the Proportionate Liability of the Releasees at the trial or other disposition of the Ontario Action, whether or not the Releasees remain in the Ontario Action or appear at the trial or other disposition, and the Proportionate Liability of the Releasees shall be determined as if the Releasees are parties to the Ontario Action and any determination by this Court in respect of the Proportionate Liability of the Releasees shall only apply in the Ontario Action and shall not be binding on the Releasees in any other proceeding.

13. **THIS COURT ORDERS** that if, in the absence of paragraph 12 hereof, the Non-Settling Defendants would not have the right to make claims for contribution and indemnity or other claims over, whether in equity or in law, by statute or otherwise, from or against the Releasees, then nothing in this Order is intended to or shall limit, restrict or affect any arguments which the Non-Settling Defendants may make regarding the reduction of any assessment of damages, restitutionary award, disgorgement of profits or judgment against them in favour of members of the Ontario Settlement Class in the Ontario Action.

solely for the purpose of implementing, administering and enforcing the Settlement Agreement and this Order, and subject to the terms and conditions set out in the Settlement Agreement and this Order.

18. **THIS COURT ORDERS** that, except as provided herein, this Order does not affect any claims or causes of action that any members of the Ontario Settlement Class has or may have against the Non-Settling Defendants or named or unnamed co-conspirators who are not Releasees.
19. **THIS COURT ORDERS** that no Releasee shall have any responsibility or liability whatsoever relating to the administration of the Settlement Agreement, including administration, investment, or distribution of the Trust Account.
20. **THIS COURT ORDERS** that the Settlement Amount shall be held in the Trust Account by Class Counsel for the benefit of Class Members and after the Effective Date the Settlement Amount may be used to pay Class Counsel Disbursements incurred for the benefit of the Settlement Classes in the continued prosecution of the litigation against the Non-Settling Defendants. This paragraph shall not be interpreted as affecting the rights of the Plaintiffs or the Settlement Classes to claim such Disbursements in the context of a future costs award in their favour against the Non-Settling Defendants, or the rights of the Non-Settling Defendants to oppose and resist any such claim.
21. **THIS COURT ORDERS** that in the event that some of the Settlement Amount remains in the Trust Account after payment of Class Counsel Disbursements, Class Counsel Fees and Administrative Expenses, Class Counsel shall seek direction from this Court regarding the distribution of the remaining funds.
22. **THIS COURT ORDERS** that the approval of the Settlement Agreement is contingent upon approval by the Quebec Court, and the terms of this Order shall not be effective unless and until the Settlement Agreement is approved by the Quebec Court, and the Quebec Action has been declared settled out of court as against the Settling Defendants in the relevant proceeding by the Courts. If such order is not secured in Quebec, this Order shall be null and void and without prejudice to the rights of the Parties to proceed with

**CANADA
PROVINCE DE QUÉBEC
DISTRICT DE QUÉBEC**

**COUR SUPÉRIEURE
(Chambre des actions collectives)
NO : 200-06-000189-152**

CHRISTINE BÉLAND

Demanderesse

c.

BANQUE ROYALE DU CANADA et als.

Défenderesses

**PIÈCE 2
(au soutien de l'Annexe 1)**

BB-6852

Casier 15

Me Karim Diallo

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