

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
BARCLAYS CAPITAL CANADA INC.

JB 3836

RECEIVED

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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
JPMORGAN CHASE & CO.

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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**

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

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[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 Citigroup, Inc., Citigroup Global Markets Canada Inc., Citibank, N.A. et Citibanque Canada (ci-après l' « Entente Citi »);

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

[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 Citi sans qu'il n'y ait eu d'objection écrite à l'Entente Citi;

[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 Citi, 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 Citi, le présent jugement prévaudra;

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

- a) **Effective Date²** means the date when Final Orders have been received from all Courts approving the Settlement Agreement.

¹ « *Settling Defendants* ».

² Date d'entrée en vigueur.

- 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 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,

³ Réclamations quittancées.

⁴ Procédures.

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. The Goldman Sachs Group, Inc., Goldman, Sachs & Co., and Goldman Sachs 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;
 - v. UBS AG, UBS Securities LLC and UBS Bank (Canada); and

⁵ Parties Quittancées.

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

- 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 Citi, 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 Citi 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 Citi 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;

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

⁷ « Other Actions ».

[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 Citi 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 Citi, la continuation des actions sur une base individuelle contre les Défenderesses qui ne sont pas parties à l'Entente Citi ou toute autre partie désignée ou non-désignée dans les Procédures qui n'est pas une Partie Quittancée;

[23] **DÉCLARE** que, par l'Entente Citi, 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 Citi, 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 Citi;

[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;

[26] **DÉCLARE** que le droit des Défenderesses qui ne sont pas parties à l'Entente Citi 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

⁸ « Releasor ».

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 Citi 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 Citi et le présent jugement, ainsi que tout motif donné par le Tribunal en lien avec l'approbation de l'Entente Citi 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 Citi 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 Citi;

[29] **DÉCLARE** que cette Cour conservera un rôle de surveillance continue, aux fins d'administration et d'exécution de l'Entente Citi 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 Citi et du présent jugement et sujet aux termes et conditions prévues dans l'Entente Citi 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 Citi 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 Citi, y compris dans la gestion, le placement ou la distribution du montant de l'entente ou quant au protocole de distribution;

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[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 Citi ou les droits des Défenderesses qui ne sont pas parties à l'Entente Citi de s'opposer à une telle réclamation;

[33] **CONSTATE** que l'Entente Citi 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 Citi 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 : Le 2 mai 2017

Annexe A : Entente Citi

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ANNEXE A

(Entente Citi)

CANADIAN FOREX CLASS ACTION NATIONAL SETTLEMENT AGREEMENT

Made as of November 29, 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

**CITIGROUP INC., CITIBANK, N.A., CITIBANK CANADA, and
CITIGROUP GLOBAL MARKETS 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, but not limited to, 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 and transactions in FX Instruments, including FX Exchange-Traded Instruments.
- (17) *FX Trading* means the trading of currencies or FX Instruments, including 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.
- (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 Defendant* 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 Mogerman 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, 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 the Proceedings or arising from or related in any way to the factual predicate of the Proceedings, or to any amended Claim 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 any 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 any 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, including

- (43) *Settlement Class* or *Settlement Classes* means in respect of each Proceeding, the settlement class defined in Schedule A.
- (44) *Settlement Class Member* means a member of a Settlement Class.
- (45) *Settling Defendants* means Citigroup Inc., Citibank, N.A., Citibank Canada, and Citigroup Global Markets 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 product, 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.

- (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 or directive to the contrary from the United States Department of Justice (“DOJ”) or any other governmental body in the United States or elsewhere 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) Within thirty (30) days of the Date of Execution, or at a time mutually agreed upon by the Parties, subject to the other provisions of this Settlement Agreement,

confidential, may not be directly or indirectly disclosed to any other person, and will not be used by Class Counsel for any purpose other than for their own internal use in connection with the prosecution of the Proceedings.

- (c) Within ninety (90) days after the Effective Date, or at a time mutually agreed upon by the Parties, subject to the other provisions of this Settlement Agreement and the terms of any protective order in the U.S. Litigation or similar order(s) in the Proceedings, the Settling Defendants agree to use reasonable efforts to:
- (i) provide to Class Counsel, to the extent reasonably available and subject to compliance with federal and provincial privacy legislation, transaction data of the Settling Defendants related to FX Trading by Canadian residents relevant to these Proceedings, which shall be produced, if so available, in a form mutually acceptable to the Parties.
 - (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);

(b) in the event that this Settlement Agreement is not approved, is terminated, or otherwise fails to take effect for any reason, the documents and information provided during the evidentiary proffers and/or interviews shall not be used by the Plaintiffs or Class Counsel in any way, including without limiting the generality of the foregoing, against the Settling Defendants as an admission or evidence of any violation of any statute or law, or of any liability or wrongdoing by the Settling Defendants or of the truth of any claims or allegations in the Proceedings, and such information shall not be discoverable by any Person or treated as evidence of any kind. Class Counsel shall return all copies of any documents received during, and destroy all copies of any notes taken during (or subsequent reports provided about), these evidentiary proffers and/or interviews and to provide written confirmation to the Settling Defendants of having done so.

(6) Subject to the rules of evidence, any court order with respect to confidentiality and the other provisions of this Settlement Agreement, the Settling Defendants agree to use reasonable efforts to produce at trial or through an acceptable affidavits (i) a current representative qualified to establish for admission into evidence the Settling Defendants' transactional data provided pursuant to Section 4.1(3)(c)(i); (ii) a representative qualified to establish for admission into evidence any of the Settling Defendants' documents provided as cooperation pursuant to Section 4.1(3) of this Settlement Agreement (after Class Counsel has used best efforts to authenticate documents for use at trial without a live witness); and (iii) a maximum of four representatives qualified to establish for admission into evidence information provided in cooperation pursuant to Section 4 of this Settlement Agreement, provided that Class Counsel shall use all reasonable efforts to limit this requirement to a single witness, and alternatively to one witness each on behalf of Citigroup Inc., Citibank, N.A., Citibank Canada, and Citigroup Global Markets Canada Inc. To the extent reasonably possible, a single witness will be used both to authenticate documents and provide the information at trial contemplated by this paragraph. The failure of a specific officer, director or employee to agree to make him or herself available shall not constitute a violation of this Settlement Agreement. To the extent any of the Settling Defendants' cooperation obligations require any current or former employees of the Settling Defendants to travel from their principal place of business to another location, Class Counsel shall reimburse the Settling Defendants for half of the reasonable travel expenses incurred by any such person in

- (11) Subject to sections 4.1(12) and (13), the provisions set forth in this Section 4.1 are the exclusive means by which the Plaintiffs, Class Counsel and Settlement Class Members may obtain discovery or information or documents from the Releasees or their current or former officers, directors or employees. The Plaintiffs, Class Counsel and Settlement Class Members agree that they shall not pursue any other means of discovery against, or seek to compel the evidence of, the Releasees or their current or former officers, directors, employees, agents, or counsel, whether in Canada or elsewhere and whether under the rules or laws of this or any other Canadian or foreign jurisdiction.
- (12) The Plaintiffs may exercise any rights they have to seek to obtain discovery in the Proceedings as against the officers, directors and/or employees of the Settling Defendants put forward to participate in employee interviews or provide testimony at trial or otherwise pursuant to Section 4.1(6), if the current or former officer, director or employee of the Settling Defendants fails to cooperate in accordance with that Section and the provisions of this Settlement Agreement.
- (13) In the event that the Settling Defendants materially breach this Section 4.1, the Plaintiffs may move before the Courts to enforce the terms of this Settlement Agreement.
- (14) A material factor influencing the Settling Defendants' decision to execute this Settlement Agreement is the desire to limit the burden and expense of this litigation. Accordingly, Class Counsel agree to exercise good faith in seeking cooperation from the Settling Defendants, agree not to seek information that is unnecessary, cumulative or duplicative and agree otherwise to avoid imposing undue or unreasonable burdens or expense on the Settling Defendants.
- (15) The scope of the Settling Defendants' cooperation under this Settlement Agreement shall be limited to the allegations asserted in the Proceedings as presently filed.
- (16) The Settling Defendants make no representation regarding, and shall bear no liability with respect to, the accuracy of, or that they have, can or will produce a complete set of any of the documents or information described in this Section 4.1, and the failure to do so shall not constitute a breach or violation of this Settlement Agreement.

SECTION 5 – OPTING-OUT

5.1 Opt-Outs

- (1) Opt-out rights were provided in earlier settlements in these Proceedings involving other settling defendants. No further right to opt-out of the Proceedings will be provided.
- (2) With respect to any potential Settlement Class Member who validly opted-out from the Proceedings, the Settling Defendants reserve all of their legal rights and defences.
- (3) The Plaintiffs through their respective Class Counsel expressly waived their right to opt-out of the Proceedings.
- (4) Within thirty (30) days of the expiry of any opt-out deadline specified in any prior settlement in these Proceedings, Ontario Counsel shall provide to the Settling Defendants a report containing the names of each Person who has validly and timely opted-out of the Proceedings, the reason for the opt-out, if known, and a summary of the information delivered by the Person pursuant to the applicable opt-out provisions.

SECTION 6 - TERMINATION OF SETTLEMENT AGREEMENT

6.1 Right of Termination

- (1) The Class Plaintiffs and the Settling Defendants shall, in their respective discretions, have the right to terminate the settlement set forth in this Settlement Agreement by providing written notice of their election to do so ("Termination Notice") to all other Parties hereto within thirty (30) days of the date on which:
 - (a) any Court declines to certify or authorize the Proceedings for the purposes of the Settlement Agreement;
 - (b) any Court declines to dismiss or declare settled out of court the Proceedings against the Settling Defendants;
 - (c) any Court declines to approve this Settlement Agreement or any material part hereof;
 - (d) any Court approves this Settlement Agreement in a materially modified form;

- (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;
- (c) any prior certification or authorization of a Proceeding as a class proceeding on the basis of this Settlement Agreement, including the definitions of the Settlement Class and the Common Issue pursuant to this Settlement Agreement, shall be without prejudice to any position that any of the Parties or Releasees may later take on any issue in the Proceedings or any other litigation; and
- (d) within ten (10) days of such termination having occurred, Class Counsel shall destroy all documents or other materials provided by the Settling Defendants under this Settlement Agreement or containing or reflecting information derived from such documents or other materials received from the Settling Defendants and, to the extent Class Counsel has disclosed any documents or information provided by the Settling Defendants to any other Person, shall recover and destroy such documents or information. Class Counsel shall provide counsel to the Settling Defendants with a written certification by Class Counsel of such destruction within ten (10) days of such termination having occurred. Nothing contained in this Section 6.2 shall be construed to require Class Counsel to destroy any of their work product except as provided in Section 4.1(5)(b). However, any documents or information provided by the Settling Defendants, or received from the Settling Defendants in connection with this Settlement Agreement, may not be disclosed to any Person in any manner or used, directly or indirectly, by Class Counsel or any other Person in any way for any reason, without the express prior written permission of the Settling Defendants. Class Counsel shall take appropriate steps and precautions to ensure and maintain the confidentiality of such documents, information and any work product of Class Counsel derived from such documents or information.

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 Releasors 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.

7.3 No Further Claims

(1) Upon the Effective Date, the Releasors shall not then or thereafter 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, any action, suit, cause of action, claim or demand against any Releasee, or any other Person who may claim contribution or indemnity or other claims over relief from any Releasee, in respect of any Released Claim, except for the continuation of the Proceedings against the Non-Settling Defendants or unnamed alleged co-conspirators that are not Releasees or, if the Proceedings are not certified or authorized, the continuation of the claims asserted in the Proceedings on an individual basis or otherwise against any Non-Settling Defendant or unnamed co-conspirator that is not a Releasee. For greater certainty and without limiting the generality of the foregoing, the Releasors shall not assert or pursue a Released Claim against any Releasee under the laws of any foreign jurisdiction.

7.4 Dismissal of the Proceedings

(1) Upon the Effective Date, the Ontario Action shall be dismissed with prejudice and without costs as against the Settling Defendants.

(2) Upon the Effective Date, the Quebec Action shall be declared settled out of Court with prejudice and without costs against the Settling Defendants.

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) the Ontario Court shall have full authority to determine the Proportionate Liability of the Releasees at the trial or other disposition of the proceedings, whether or not the Releasees remain in the proceedings 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 proceedings and any determination by this Court in respect of the Proportionate Liability of the Releasees shall only apply in the Actions and shall not be binding on the Releasees in any other proceeding.

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

8.3 Quebec Waiver or Renunciation of Solidarity Order

- (1) Class Counsel shall seek a waiver or renunciation of solidarity from the Quebec Court providing for the following:
 - (a) the Quebec Petitioners and the Quebec Settlement Class Members in the Quebec Action expressly waive and renounce the benefit of solidarity against the Non-Settling Defendants with respect to the facts, deeds or other conduct of the Releasees;

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 are not certified or authorized, the continuation of the claims asserted in the Proceedings on an individual basis or otherwise against any Non-Settling Defendant or unnamed co-conspirator that is not a Releasee. Moreover, these Persons may not divulge to anyone for any purpose any information obtained in the course of the Proceedings or the negotiation and preparation of this Settlement Agreement, except to the extent such information is otherwise publicly available or unless ordered to do so by a court, subject to Section 4.2 of this Settlement Agreement.

(2) Section 9.3(1) shall be inoperative to the extent that it is inconsistent with BC Class Counsel's obligations under Rule 3.2-10 of the Code of Professional Conduct for British Columbia.

SECTION 10 - CERTIFICATION OR AUTHORIZATION FOR SETTLEMENT ONLY

(1) The Parties agree that the Proceedings shall be certified or authorized as class proceedings as against the Settling Defendants solely for purposes of settlement of the Proceedings and the approval of this Settlement Agreement by the Courts.

(2) The Plaintiffs agree that, in the motions for certification or authorization of the Proceedings as class proceedings for settlement purposes and for the approval of this Settlement

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.

12.2 Information and Assistance

- (1) Subject to the privacy and other laws referred to in Section 4.1(7) of this Agreement, the Settling Defendants will make best efforts to provide to Class Counsel, at their own expense, a list in electronic format of the names and addresses of Settlement Class Members, who, between January 1, 2003 and December 31, 2013, entered into an FX Instrument either directly or indirectly through an intermediary who can be reasonably identified based on client records that the Settling Defendants have in their possession, custody or control. Any information provided pursuant to this provision shall be maintained as confidential and used only for the purposes of effecting this Settlement Agreement.
- (2) Class Counsel may use the information provided under Section 12.1(1):
 - (a) to facilitate the dissemination of the notices required in Section 11.1;
 - (b) to advise Persons in Canada who purchased an FX Instrument either directly or indirectly through an intermediary from the Releasees during the Class Period of any subsequent settlement agreement reached in the Proceedings, any related approval hearings, and any other major steps in the Proceedings;

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.
- (4) Except as provided herein, Administration Expenses may only be paid out of the Trust Account after the Effective Date.
- (5) The Settling Defendants shall not be liable for any fees, disbursements or taxes of any of the lawyers, experts, advisors, agents, or representatives retained by Class Counsel, the Plaintiffs or the Settlement Class Members, any amounts to which the *Fonds d'aide aux actions collectives* in Quebec may be entitled, or any lien of any Person on any payment to any Settlement Class Member from the Settlement Amount.

SECTION 15 - MISCELLANEOUS

15.1 Motions for Directions

- (1) Class Counsel or the Settling Defendants may apply to the Ontario Court and/or such other courts as may be required by the Courts for directions in respect of the interpretation, implementation and administration of this Settlement Agreement. Unless the Courts order otherwise, motions for directions that do not relate specifically to the matters affecting the Quebec Action shall be determined by the Ontario Court.
- (2) All motions contemplated by this Settlement Agreement shall be on notice to the Parties.

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.

(2) Notwithstanding Section 15.6(1), for matters relating specifically to the Quebec Action, the Quebec Court, as applicable, shall apply the law of its own jurisdiction.

15.7 Entire Agreement

(1) This Settlement Agreement constitutes the entire agreement among the Parties, and supersedes all prior and contemporaneous understandings, undertakings, negotiations, representations, promises, agreements, agreements in principle and memoranda of understanding in connection herewith. None of the Parties will be bound by any prior obligations, conditions or representations with respect to the subject matter of this Settlement Agreement, unless expressly incorporated herein.

15.8 Amendments

(1) This Settlement Agreement may not be modified or amended except in writing and on consent of all of the Parties, and any such modification or amendment must be approved by the Courts with jurisdiction over the matter to which the amendment relates.

15.9 Binding Effect

(1) This Settlement Agreement shall be binding upon, and enure to the benefit of, the Plaintiffs, the Settlement Class Members, the Settling Defendants, the Releasers, the Releasees and all of their successors and assigns. Without limiting the generality of the foregoing, each and

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;
 - (b) the terms of this Settlement Agreement and the effects thereof have been fully explained to him, her or the Party's representative by his, her or its counsel;
 - (c) he, she or the Party's representative fully understands each term of the Settlement Agreement and its effect; and
 - (d) no Party has relied upon any statement, representation or inducement (whether material, false, negligently made or otherwise) of any other Party, beyond the terms of the Settlement Agreement, with respect to the first Party's decision to execute this Settlement Agreement.

15.17 Authorized Signatures

(1) Each of the undersigned represents that he or she is fully authorized to enter into the terms and conditions of, and to execute, this Settlement Agreement on behalf of the Parties identified above their respective signatures and their law firms.

15.18 Notice

(1) Where this Settlement Agreement requires a Party to provide notice or any other communication or document to another, such notice, communication or document shall be

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: Robert Gain

Signature of Authorized Signatory: Robert Gain for Sotos
Sotos LLP
Ontario Counsel

Name of Authorized Signatory: Robert Gain

Signature of Authorized Signatory: Robert Gain
Koskie Minsky LLP
Ontario Counsel

Name of Authorized Signatory: Robert Gain

Signature of Authorized Signatory: Robert Gain for Siskinds
Siskinds LLP
Ontario Counsel

Name of Authorized Signatory: Robert Gain

Signature of Authorized Signatory: Robert Gain for CFM
Camp Fiorante Matthews Mogeran 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., 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)
JUSTICE PERELL) _____, the _____ day
)
) 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., 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*

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 customer information or

- (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;
 - (v) UBS AG, UBS Securities LLC and UBS Bank (Canada), to the extent that the settlement agreement with such entities is finally approved by this Court; 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) **Ontario Settlement Class** means 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^[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.

4. **THIS COURT ORDERS** that this Order, including the Settlement Agreement, is binding upon each Ontario Settlement Class Member 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.
5. **THIS COURT ORDERS** that the Settlement Agreement is fair, reasonable and in the best interests of the Ontario Settlement Class.

12. **THIS COURT ORDERS** that, upon the Effective Date, each member of the Ontario Settlement Class who is resident in any province or territory where the release of one tortfeasor is a release of all tortfeasors covenants and undertakes not to make any claim in any way nor 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.
13. **THIS COURT ORDERS** that 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 any Other Actions, or otherwise, by any Non-Settling Defendant, any named or unnamed co-conspirator that is not a Releasee, any Settled Defendant or any other Person or party against a Releasee, or by a Releasee against any Non-Settling Defendant, any named or unnamed co-conspirator that is not a Releasee, any Settled Defendant or any Person or party, are barred, prohibited and enjoined in accordance with the terms of this Order (unless such claim is made in respect of a claim by a Person who has validly opted out of the Proceedings);
14. **THIS COURT ORDERS** that if this Court ultimately determines that a claim for contribution and indemnity or other claim over, whether in equity or in law, by statute or otherwise is a legally recognized claim:
 - (a) the Ontario Plaintiffs and the 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;
 - (b) the Ontario Plaintiffs and the 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 only, and shall only seek 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

- (a) documentary discovery and an affidavit of documents from the Settling Defendant(s) in accordance with the Rules of Civil Procedure, RRO 1990, Reg. 194;
 - (b) oral discovery of a representative of the Settling Defendant(s), the transcript of which may be read in at trial;
 - (c) leave to serve a request to admit on the Settling Defendant(s) in respect of factual matters; and
 - (d) the production of a representative of a Settling Defendant(s) to testify at trial, with such witness to be subject to cross-examination by counsel for the Non-Settling Defendants.
17. **THIS COURT ORDERS** that the Settling Defendants retain all rights to oppose such motion(s) brought under paragraph 16. Moreover, nothing herein restricts a Settling Defendant from seeking a protective order to maintain confidentiality and protection of proprietary information in respect of documents to be produced and/or for information obtained from discovery in accordance with paragraph 16. Notwithstanding any provision in this Order, on any motion brought pursuant to paragraph 16, the Court may make such orders as to costs and other terms as it considers appropriate.
18. **THIS COURT ORDERS** that a Non-Settling Defendant may effect service of the motion(s) referred to in paragraph 16 above on the Settling Defendant by service on counsel for the Settling Defendants.
19. **THIS COURT ORDERS** that the approval of the Settlement Agreement and this Order, and any reasons given by the Court in connection with the approval of the Settlement Agreement or this Order (except any reasons given in connection with paragraphs 13 – 18 of this Order), 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 upon 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.

with the Ontario Action and any agreement between the Parties incorporated in this Order shall be deemed in any subsequent proceedings to have been made without prejudice.

25. **THIS COURT ORDERS** that, in the event that the Settlement Agreement is terminated in accordance with its terms, this Order shall be declared null and void on subsequent motion made on notice.

26. **THIS COURT ORDERS** that the Ontario Action is hereby dismissed as against the Settling Defendants, without costs and with prejudice.

The Honourable Justice Perell

**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 4
(au soutien de l'Annexe 1)**

BB-6852

Casier 15

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