

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

IN RE LIBOR-BASED FINANCIAL INSTRUMENTS ANTITRUST LITIGATION	MDL No. 2262
THIS DOCUMENT RELATES TO:	Master File No. 1:11-md-2262-NRB ECF Case
The OTC Action	

**DECLARATION OF MICHAEL D. HAUSFELD
IN SUPPORT OF OTC PLAINTIFFS’ MOTION FOR FINAL APPROVAL OF
SETTLEMENT WITH CITIBANK, N.A. AND CITIGROUP INC.**

Pursuant to 28 U.S.C. § 1746, I, Michael D. Hausfeld, declare:

1. I am chairman of the law firm of Hausfeld LLP, and I submit this declaration in support of OTC Plaintiffs Motion for Final Approval of Settlement with Citibank N.A. and Citigroup Inc.¹

2. I have been actively involved in prosecuting and resolving this action, am familiar with its proceedings, and have personal knowledge of the matters set forth herein. If called upon and sworn as a witness, I could competently testify thereto.

3. Because this declaration is submitted in support of a Settlement, it is inadmissible in any subsequent proceedings, other than in connection with the Settlement. In the event the Settlement is not approved by the Court, this declaration and the statements contained herein are without prejudice to OTC Plaintiffs’ position on the merits of the OTC Action.

¹ Unless otherwise defined herein, all capitalized terms have the meaning ascribed to them in the Stipulation and Agreement of Settlement with Citibank N.A. and Citigroup Inc. dated July 27, 2017 (the “Settlement”).

I. THE SETTLEMENT

4. If finally approved, the proposed Settlement, consisting of \$130,000,000 cash and an agreement to provide significant cooperation to OTC Plaintiffs in pursuing their case against the non-settling defendants, will resolve this complex case against Citibank N.A. and Citigroup Inc. (collectively, “Citi”).

5. OTC Plaintiffs’ settlement with Citi is the second settlement in the litigation and represents a second significant step forward in the prosecution of the OTC Action. The Settlement is the product of hard-fought, arm’s-length negotiations by counsel highly experienced in complex antitrust matters and was reached under the oversight and with the assistance of a mediator, the Honorable Layn R. Phillips.

6. Settlement negotiations between Citi’s Counsel and OTC Plaintiffs’ Counsel began in May 2015. In September 2015, the parties agreed to retain the Honorable Layn Phillips, a former federal judge, as a mediator to facilitate settlement. On December 1, 2015, the parties participated in a day-long in-person mediation session with Judge Phillips. The mediation included negotiations concerning potential monetary and non-monetary terms for a settlement, but the parties were not able to reach an agreement. Citi’s counsel and OTC Plaintiffs’ Counsel engaged in telephonic discussions and negotiations thereafter, including numerous communications facilitated by Judge Phillips.

7. On July 27, 2017, the Parties reached agreement on all material terms, including the Settlement Fund of \$130 million, and executed the Settlement Agreement.

8. At all times, both sides vigorously negotiated their respective positions. OTC Plaintiffs’ Counsel were well-informed of the facts and issues concerning liability and damages and the relative strengths and weaknesses of each side’s litigation position.

9. The consideration provided by Citi in return for a release of all U.S. claims is comprised of two parts, cash and cooperation, both of which are extremely valuable. The cash portion of the Settlement consists of \$130,000,000, which will comprise the Settlement Fund. The Settlement Fund is non-reversionary if there is final approval of the Settlement by the Court; no money will be returned to Citi. The cooperation component of the Settlement obligates Barclays to provide extensive cooperation for the longer of seven (7) years or the duration of the OTC Action. The cooperation includes: (a) proffers from Citi's Counsel, (b) production of transactional data and documents, (c) witness interviews, (d) depositions, (e) declarations and affidavits, and (f) trial witnesses.

10. A more detailed description of the terms of the Settlement can be found at Paragraphs 24 through 29 of my declaration in support of preliminary approval of the settlement, and those paragraphs are incorporated herein by reference. *See* ECF No. 2197.

11. I believe the Settlement is fair, reasonable and adequate, and I believe that the Court should grant OTC Plaintiffs' application for final approval of the Settlement.

II. THE PLAN OF DISTRIBUTION

12. The Plan of Distribution proposed for the Citi settlement is the same Plan of Distribution that was proposed for the Barclays settlement. Interim Co-Lead Class Counsel developed this Plan of Distribution based upon suppression models prepared by Dr. Douglas Bernheim.

13. The proposed Plan of Distribution provides a *pro rata* distribution to members of the Settlement Class in proportion to their notional stakes. The Plan of Distribution provides that the suppressed daily underpayments for each instrument will be calculated as follows:

For each day during the class period when the Claimant had the right to be paid or to receive interest based upon the U.S. Dollar LIBOR rate, the suppressed daily

underpayment equals: the dollar amount of the LIBOR-based payment that was due to the Claimant that day (using historical reported LIBOR rates and payment frequency) multiplied by the magnitude of suppression applicable for that day and then divided by the historical reported LIBOR rate for that day.

14. Although unnecessary, Interim Co-Lead Counsel engaged independent Allocation Counsel to evaluate the Plan of Distribution. The four firms serving as Allocation Counsel were: Steyer Lowenthal Boodrookas Alvares & Smith LLP; Spector, Roseman & Kodroff PC; Bleichmar Fonti & Auld LLP; and Saveri & Saveri, Inc. Allocation Counsel met at arm's-length throughout April 2017 and periodically reported their progress to the Settlement Administrator, Kenneth Feinberg, and Interim Co-Lead Counsel. Allocation Counsel also discussed the proposed Plan of Distribution with consulting experts at Bates White. In addition, the Settlement Administrator was made available to mediate any disputes between Allocation Counsel. Ultimately, Allocation Counsel adopted the proposed Plan of Allocation.

15. The Court preliminarily approved the Plan of Distribution on September 26, 2017. ECF No. 2290.

16. Interim Co-Lead Counsel believes the proposed Plan of Distribution to be fair and reasonable. Interim Co-Lead Counsel has determined that the fairest and most efficient manner of distributing funds to members of the Settlement Class is the method used in the proposed Plan of Distribution.

I certify under penalty of perjury under the laws of the United States of America that the forgoing is true and correct.

Executed on December 15, 2017, in Washington, DC.

/s/ Michael D. Hausfeld
Michael D. Hausfeld