

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK**

FUND LIQUIDATION HOLDINGS LLC as assignee and successor-in-interest to Sonterra Capital Master Fund, Ltd., HAYMAN CAPITAL MASTER FUND, L.P., JAPAN MACRO OPPORTUNITIES MASTER FUND, L.P., and CALIFORNIA STATE TEACHERS' RETIREMENT SYSTEM, on behalf of themselves and all others similarly situated,

Plaintiffs,

- against -

UBS AG, UBS SECURITIES JAPAN CO. LTD., SOCIÉTÉ GÉNÉRALE S.A., NATWEST GROUP PLC, NATWEST MARKETS PLC, NATWEST MARKETS SECURITIES JAPAN LTD, NATWEST MARKETS SECURITIES, INC., BARCLAYS BANK PLC, BARCLAYS PLC, COÖPERATIEVE RABOBANK U.A., LLOYDS BANKING GROUP PLC, LLOYDS BANK PLC, NEX INTERNATIONAL LIMITED, ICAP EUROPE LIMITED, TP ICAP PLC, BANK OF AMERICA CORPORATION, BANK OF AMERICA, N.A., MERRILL LYNCH INTERNATIONAL, AND JOHN DOE NOS. 1-50,

Defendants.

Case No. 15-cv-5844  
(GBD)(SLC)

**DECLARATION OF VINCENT BRIGANTI, ESQ. IN SUPPORT OF  
REPRESENTATIVE PLAINTIFFS' MOTION FOR PRELIMINARY APPROVAL  
OF CLASS ACTION SETTLEMENT WITH SOCIÉTÉ GÉNÉRALE**

I, Vincent Briganti, pursuant to 28 U.S.C. § 1746, hereby declare as follows:

1. I am the Chairman and a shareholder of the law firm of Lowey Dannenberg, P.C., Lead Counsel<sup>1</sup> in the action *Fund Liquidation Holdings LLC, et al. v. UBS AG, et al.*, Case No. 15-cv-5844 (GBD) (S.D.N.Y.) (the “Action”). I submit this Declaration in connection with the pending Motion for Preliminary Approval of Class Action Settlement with Société Générale (“SocGen”).

2. Annexed hereto are true and correct copies of the following documents:

<b>TABLE OF EXHIBITS</b>	
Exhibit 1	Stipulation and Agreement of Settlement with SocGen dated February 16, 2024 (the “Settlement Agreement”).
Exhibit 2	Declaration of Elaine Pang, dated February 16, 2024
Exhibit 3	Proposed Mailed Notice.
Exhibit 4	Proposed Publication Notice.
Exhibit 5	Proposed Proof of Claim and Release Form.
Exhibit 6	Resume of Lowey Dannenberg, P.C.

3. **Experience.** At the time the proposed settlement with SocGen (the “Settlement”) was being negotiated, my firm and I were experienced in prosecuting claims under the Commodity Exchange Act (“CEA”), 7 U.S.C. §§ 1 *et seq.*, Sherman Antitrust Act, 15 U.S.C. §§ 1 *et seq.*, and Racketeer Influenced and Corrupt Organizations Act (“RICO”), 18 U.S.C. §§ 1961 *et seq.* See Exhibit 6.

4. **Well-Informed.** Before reaching the Settlement, Lead Counsel was well-informed regarding the strengths and weaknesses of Representative Plaintiffs’<sup>2</sup> claims. Lead Counsel

<sup>1</sup> Unless otherwise defined, capitalized terms shall have the same meanings as defined in the Settlement Agreement.

<sup>2</sup> “Representative Plaintiffs” means the California State Teachers’ Retirement System (“CalSTRS”), Fund Liquidation Holdings, LLC, individually and as assignee and successor-in-interest to Sonterra Capital Master Fund, Ltd., Hayman Capital Master Fund, L.P., and Japan Macro Opportunities Master Fund, L.P.

extensively reviewed and analyzed the following documents and information: (i) settlement cooperation provided by Defendants R.P. Martin Holdings Limited and Martin Brokers (UK) Ltd. (collectively, “R.P. Martin”), Citigroup Inc., Citibank, N.A., Citibank Japan Ltd. and Citigroup Global Markets Japan Inc. (collectively, “Citi”), HSBC Holdings plc and HSBC Bank plc (collectively, “HSBC”), Deutsche Bank AG and DB Group Services (UK) Ltd. (collectively, “Deutsche Bank”), JPMorgan Chase & Co., JPMorgan Chase Bank, National Association and J.P. Morgan Securities plc (collectively, “JPMorgan”), The Bank of Tokyo-Mitsubishi UFJ, Ltd. now known as MUFG Bank (“BTMU”) and Mitsubishi UFJ Trust and Banking Corporation (“MUTB”), The Bank of Yokohama, Ltd. (“The Bank of Yokohama”), Shinkin Central Bank (“Shinkin”), The Shoko Chukin Bank, Ltd. (“Shoko Chukin”), Sumitomo Mitsui Trust Bank, Ltd. (“Sumitomo”),<sup>3</sup> Resona Bank, Ltd. (“Resona”), Mizuho Bank, Ltd., Mizuho Corporate Bank, Ltd., and Mizuho Trust & Banking Co., Ltd. (collectively, “Mizuho”), The Norinchukin Bank (“Norinchukin”), Sumitomo Mitsui Banking Corporation (“SMBC”), Barclays Bank PLC, Barclays Capital Inc., and Barclays PLC (collectively, “Barclays”), Nex International Limited (f/k/a ICAP plc) and ICAP Europe Limited (collectively, “ICAP”), and TP ICAP plc (f/k/a Tullett Prebon plc and n/k/a TP ICAP Finance plc (“Tullett Prebon”) in connection with prior settlements in this Action and in the companion case, *Laydon v. Mizuho Bank, Ltd., et al.*, Case No. 12-cv-3419 (GBD) (“*Laydon*”); (ii) government settlements, including plea, non-prosecution, and deferred prosecution agreements; (iii) publicly-available information relating to the conduct alleged in Representative Plaintiffs’ complaints; (iv) expert and industry research regarding Yen-LIBOR, Euroyen TIBOR, and Euroyen-Based Derivatives in the futures and over-the-counter

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<sup>3</sup> Sumitomo Mitsui Trust Bank, Limited was formerly known, and was sued as The Sumitomo Trust and Banking Co., Ltd. (“STB”). The Chuo Mitsui Trust and Banking Company, Limited merged into STB prior to the commencement of the Action to form Sumitomo Mitsui Trust Bank, Limited.

markets; and (v) the discovery record. In addition, Lead Counsel: (a) conducted an extensive investigation into the facts and legal issues in this Action and *Laydon*; (b) engaged in extensive negotiations with SocGen; and (c) took many other steps to research and analyze the strengths and weaknesses of the claims, including ongoing consultations with a leading commodity manipulation expert.

### **Procedural History**

5. The procedural history of this Action and the companion *Laydon* case is detailed in my prior declarations in support of preliminary and final approval of the settlements with Barclays, ICAP and Tullett Prebon; The Bank of Yokohama, Shinkin, Shoko Chukin, Sumitomo, and Resona; Mizuho, Norinchukin, and SMBC; BTMU and MUTB; Deutsche Bank and JPMorgan; and R.P. Martin, Citi, and HSBC. *See* ECF Nos. 189, 262, 279, 338, 372, 399, 410, 609, 651; *Laydon*, ECF Nos. 959, 965, 992.<sup>4</sup> The declarations are hereby incorporated by reference. Since my prior declarations, the following events have occurred in this Action and the related *Laydon* case:

### **This Action**

6. On February 23, 2022, the Court entered the Proposed Confidentiality Stipulation and Proposed Protective Order between Representative Plaintiffs, SocGen and UBS AG. ECF Nos. 598-99.

7. Representative Plaintiffs filed their motion for preliminary approval of settlements with Barclays, ICAP, and Tullett Prebon on July 22, 2022. ECF Nos. 607-12. After holding a hearing on October 4, 2022, the Court granted Representative Plaintiffs' motion and entered orders preliminarily approving the three settlements on October 5, 2022. ECF Nos. 625-27.

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<sup>4</sup> Unless otherwise noted, ECF citations refer to the docket in this Action.

8. On August 30, 2022, the Court issued its memorandum decision and order granting SocGen's motion for clarification and reconsideration, granting UBS's motion for reconsideration, and denying CalSTRS' motion for reconsideration. ECF No. 615.

9. CalSTRS and SocGen negotiated a case management plan, a revised version of which was entered by the Court on November 3, 2022. ECF No. 633.

10. SocGen filed its Answer to the Second Amended Complaint on November 11, 2022. ECF No. 635.

11. Pursuant to the case management plan, CalSTRS and SocGen negotiated a Protocol Governing Fact Depositions, which the Court entered on January 17, 2023. ECF No. 643. SocGen also filed a motion for issuance of request for international judicial assistance, which the Court granted on January 20, 2023. ECF No. 646.

12. On January 24, 2023, Representative Plaintiffs filed their motion for final approval of the settlements with Barclays, ICAP, and Tullett Prebon. ECF Nos. 648, 650-58, 664-69. After holding a fairness hearing, the Court entered orders granting final approval of the settlements and judgments of dismissal with prejudice as to Barclays, ICAP, and Tullett Prebon on March 14, 2023. ECF Nos. 683-88.

13. SocGen filed an Amended Answer to the Second Amended Complaint on April 17, 2023. ECF No. 692.

14. SocGen and CalSTRS negotiated modifications to the case management plan, which the Court entered on June 30, 2023. ECF No. 699.

15. On August 11, 2023, SocGen filed a motion to dismiss the Second Amended Complaint, which CalSTRS opposed on September 25, 2023. ECF Nos. 702-705, 717. SocGen filed its reply brief on October 16, 2023. ECF Nos. 725-26. The Court then set oral argument on

SocGen's motion for December 12, 2023. ECF No. 727. Oral argument was subsequently adjourned *sine die*. ECF No. 728.

16. On October 12, 2023, the Court entered the expert discovery stipulation and order negotiated between SocGen and CalSTRS. ECF No. 724.

Laydon

17. On October 18, 2022, the Second Circuit issued an opinion and judgment affirming the Court's dismissal of plaintiff Jeffrey Laydon's claims. *Laydon v. Coöperatieve Rabobank U.A., et al.*, Nos. 20-3626(L), 20-3775(XAP), ECF Nos. 362, 368 (2d Cir. Oct. 18, 2022).

18. Laydon filed a petition for rehearing and rehearing *en banc* on November 22, 2022, supported by an *amicus curiae* brief filed on November 29, 2022 by the U.S. Commodity Futures Trading Commission ("CFTC"). *Laydon v. Coöperatieve Rabobank U.A., et al.*, Nos. 20-3626(L), 20-3775(XAP), ECF No. 379 (2d Cir. Nov. 22, 2022); ECF No. 383 (2d Cir. Nov. 29, 2022).

19. On December 8, 2022, the Second Circuit filed an amended opinion and judgment. *Laydon v. Coöperatieve Rabobank U.A., et al.*, Nos. 20-3626(L), 20-3775(XAP), ECF Nos. 387, 393 (2d Cir. Dec. 8, 2022).

20. Laydon renewed his petition for rehearing and rehearing *en banc* on January 17, 2023, which was again supported by the CFTC. *Laydon v. Coöperatieve Rabobank U.A., et al.*, Nos. 20-3626(L), 20-3775(XAP), ECF No. 399 (2d Cir. Jan. 12, 2023); ECF No. 403 (2d Cir. Jan. 19, 2023). The Second Circuit denied the petition on February 24, 2023. *Laydon v. Coöperatieve Rabobank U.A., et al.*, Nos. 20-3626(L), 20-3775(XAP), ECF Nos. 406 (2d Cir. Feb. 24, 2023). Laydon filed a petition for a writ of certiorari to the U.S. Supreme Court on July 24, 2023, which was denied on October 2, 2023.

### Settlement Negotiations

21. **Arm's-Length.** Negotiations leading to the Settlement with SocGen were entirely non-collusive and strictly arm's-length. During the course of negotiations, Representative Plaintiffs had the benefit of information developed from various sources, including settlement cooperation from the prior settling Defendants, the discovery record, certain Defendants' government settlements and orders, other public accounts of manipulation involving Yen-LIBOR, Euroyen TIBOR, and the prices of Euroyen-Based Derivatives, Lead Counsel's investigation into Representative Plaintiffs' claims, industry and expert analysis, previous decisions in this Action and *Laydon*, and information shared by SocGen during settlement negotiations. I was involved in all aspects of the settlement negotiations on behalf of Representative Plaintiffs. SocGen was also well-represented by one of the leading law firms in the United States. SocGen's attorneys have decades of experience and are some of the leading defense practitioners in commercial, antitrust, securities, CEA, and class action litigation cases.

22. In addition, as with the prior settlements approved in this Action, CalSTRS — the largest educator-only pension fund in the world and the second largest pension fund in the United States — was directly involved with Lead Counsel in negotiating the Settlement with SocGen.

23. The negotiations with SocGen took place intermittently over six years starting approximately in that Fall of 2017 and continuing until the Settlement Agreement was executed on February 16, 2024.

24. Initial settlement discussions between Representative Plaintiffs and SocGen in the Fall of 2017 did not advance. Settlement discussions resumed in earnest in May 2023 with SocGen's counsel, and the Parties shared their updated views on the case. Over the next several months, the Parties continued their negotiations in an effort to reach a resolution. As the

negotiations progressed, the Parties agreed to mediate their dispute with the Hon. Layn R. Phillips (Ret.) of Phillips ADR. The Parties submitted confidential mediation statements and Judge Phillips held an in-person mediation session on November 29, 2023. After a full day of negotiations, Judge Phillips presented the Parties with a mediator's proposal, which the Parties accepted. The Parties executed a binding settlement term sheet on January 11, 2024. The term sheet was converted to a Settlement Agreement following further negotiations that was executed on February 16, 2024.

25. At all times while negotiating and executing the proposed Settlement Agreement, Representative Plaintiffs were represented by Lead Counsel, and additional Plaintiffs' Counsel, Berman Tabacco and Lovell Stewart Halebian Jacobson LLP, who each have significant experience prosecuting federal class action antitrust claims.

26. The Settlement was not the product of collusion. Before any financial numbers were discussed in the settlement negotiations with SocGen and before any demand or counter-offer was ever made, I was well informed about the legal risks, factual uncertainties, potential damages, and other aspects of the strengths and weaknesses of the Representative Plaintiffs' claims against SocGen.

27. **Key Settlement Terms.** SocGen has agreed to pay a total of \$35,000,000. The Settlement Class is defined as:

All Persons who purchased, sold, held, traded, or otherwise had any interest in Euroyen-Based Derivatives during the period of January 1, 2006 through June 30, 2011 (the "Class Period"), provided that, if Representative Plaintiffs expand the Class in any subsequent amended complaint, class motion, or settlement, the defined Class in this Agreement shall be expanded so as to be coterminous with such expansion. Excluded from the Settlement Class are the Defendants and any parent, subsidiary, affiliate or agent of any Defendant or any co-conspirator whether or not named as a Defendant, and the United States Government.

28. The consideration that SocGen has agreed to pay is within a range that Lead Counsel believes may be found to be fair, reasonable, and adequate at final approval. The



Settlement will also secure SocGen's cooperation to aid in the prosecution of claims against the remaining non-settling Defendants if Plaintiffs' anticipated appeal is successful. In exchange, the Settlement Class Members will release SocGen from all U.S.-based claims relating to the manipulation of Yen-LIBOR, Euroyen TIBOR, and Euroyen-Based Derivatives which Defendants allegedly manipulated.

29. The Settlement involves a structure and terms that are common in class action settlements in this District, including a confidential Supplemental Agreement that provides SocGen with a qualified right to terminate its Settlement in the event that the volume of Euroyen-Based Derivatives transacted by Class Members who timely exercise their right to request exclusion from the Settlement Class exceeds a certain percentage. *See Ex. 1 § 23.*

30. Lead Counsel has strong reason to believe that there are at least hundreds of geographically dispersed persons and entities that fall within the Settlement Class definition. This belief is based on data from the Bank of International Settlements which shows that trillions of dollars of Euroyen-based interest rate swaps and forward rate agreements were traded within the United States from 2006 through 2011, as well as data from the settlement cooperation produced to date by R.P. Martin, Citi, HSBC, Deutsche Bank, JPMorgan, BTMU, MUTB, The Bank of Yokohama, Shinkin, Shoko Chukin, Sumitomo, Resona, Mizuho, Norinchukin, SMBC, Barclays, ICAP and Tullett Prebon.

31. If the Settlement is terminated pursuant to the terms of the Settlement Agreement, any amount paid by SocGen into an Escrow Account, less any reasonable costs incurred for notice and claims administration (as specified in the Settlement Agreement) will be returned to SocGen within 10 business days of termination. *See Ex. 1 § 5(F).*

32. If approved, the Settlement provides that “[t]he Releasing Parties finally and forever release and discharge from and covenant not to sue the Released Parties for any and all manner of claims . . . arising from or relating in any way to conduct alleged in the Action, or which could have been alleged in the Action against the Released Parties,” and the Action will be completely resolved. *See* Ex. 1 § 12(A).

33. Lead Counsel intend to seek attorneys’ fees of no more than 20% of the common fund created by the Settlement and an award to replenish the litigation fund created to reimburse their costs and expenses in the amount of up to \$500,000. *See* Ex. 1 §5(E); Ex. 3 at 8.

34. Representative Plaintiffs may also request up to \$350,000 in Service Awards for their efforts in prosecuting this Action as class representatives. *See* Ex. 1 §5(E); Ex. 3 at 8.

35. Lead Counsel has diligently represented the interests of the Class in the Action. The firm investigated and brought this Action. Lead Counsel preserved the statute of limitations. To date, their work resulted in the production of more than 1,100 gigabytes of data and the review of more than 2 million documents totaling millions of pages, 135,000 data files, and 112,000 audio files, including CalSTRS’ production of 17,390 documents totaling over 143,000 pages, and SocGen’s production of more than 2.2 million pages of documents. Lead Counsel negotiated the Settlement with SocGen. The firm has performed and continues to perform all of the necessary work to prosecute this litigation for over 10 years. Lead Counsel will continue to zealously represent the Class to prosecute the Class’s claims against the remaining non-settling Defendants.

36. The proposed Distribution Plan is the same as plan that was previously approved by the Court in each of the prior settlements in this Action.

37. The proposed settlement administrator, A.B. Data, Ltd. (“A.B. Data”), in coordination with Lead Counsel developed the proposed Notice Plan, which is substantially similar

