

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

IN RE LONDON SILVER FIXING, LTD.
ANTITRUST LITIGATION

14-MD-02573-VEC
14-MC-02573-VEC

This Document Relates to:

The Honorable Valerie E. Caproni

ALL ACTIONS

DISTRIBUTION PLAN

ADMINISTRATIVE PROCEDURES

1. Subject to Court approval, the proceeds of the Net Settlement Fund¹ will be paid to Authorized Claimants. This document discusses the administrative procedures that will apply to determine Settlement Class Members' eligibility to participate in the Settlement as Authorized Claimants.

2. Each Settlement Class Member wishing to receive proceeds from the Net Settlement Fund must submit a claim ("Claim"), consisting of: (1) a Proof of Claim and Release ("Claim Form") signed under penalty of perjury; and (2) such supporting data, documents and other proof as required by the Settlement Administrator, by the deadline set by the Court as described on the settlement website (www.SilverFixSettlement.com).

3. Following receipt of each Claim, the Settlement Administrator will issue a confirmation receipt to the claimant.

¹ Unless otherwise defined in this document, capitalized terms have the same meaning as in the September 6, 2016 Settlement Agreement between Representative Plaintiffs Norman Bailey, Christopher DePaoli, John Hayes, Laurence Hughes, KPFF Investment, Inc. f/k/a KP Investment, Inc., Kevin Maher, J. Scott Nicholson, and Don Tran (collectively, the "Representative Plaintiffs") and Defendants Deutsche Bank AG; Deutsche Bank Americas Holding Corporation, DB U.S. Financial Markets Holding Corporation, Deutsche Bank Securities, Inc.; Deutsche Bank Trust Corporation, Deutsche Bank Trust Company Americas; and Deutsche Bank AG New York Branch (collectively, "Deutsche Bank") and/or the Notice of Proposed Class Action Settlement, April 8, 2021 Fairness Hearing Thereon and Class Members' Rights dated August 5, 2020 ("Notice").

4. The Settlement Administrator will review each Claim to determine whether the claimant is a Settlement Class Member. Claims submitted by persons that are not Settlement Class Members, or by Settlement Class Members that opt out of the Settlement, will be rejected.

5. The Settlement Administrator will also review each Claim to determine whether the Claim is submitted in accordance with these administrative procedures. Claims that are not submitted in accordance with these procedures will be rejected.

ELIGIBLE TRANSACTIONS

6. The following terms will be used to determine whether transactions are eligible for participation in the Settlement:

- a. "Settlement Class Period" means the period from January 1, 1999 through September 6, 2016, inclusive.
- b. "Physical Silver" means over-the-counter ("OTC") or exchange-based transactions for physical silver.
- c. "Silver Derivatives" means any derivative in which silver is the underlying reference asset, including exchange-traded futures and options contracts, and OTC swaps, forwards, and options.
- d. "U.S.-Related Transaction" means any transaction in Physical Silver or a Silver Derivatives by: (a) any person or entity domiciled in the U.S. or its territories, or (b) by any person or entity domiciled outside the U.S. or its territories but conducted, in whole or in part, in the U.S. or its territories.

7. Only U.S.-Related Transactions in Physical Silver and Silver Derivatives during the Settlement Class Period ("Eligible Transactions") are eligible under the Settlement.

SETTLEMENT TRANSACTION VOLUME

8. For each Claim, the Settlement Administrator will determine the scaled dollar value of each Eligible Transaction, hereafter referred to as the Settlement Transaction Value ("STV") by multiplying the amount of silver (in ounces) represented in each Eligible Transaction by: (a) the closing price of silver on the date of the transaction as reported by Bloomberg (*i.e.*, ticker "XAG")

(the “Cost Multiplier”); and (b) an Instrument Multiplier, based on the type of Silver Instrument involved in each Eligible Transaction.

9. These multipliers were determined based on Representative Plaintiffs’ allegations, prior Court decisions in this action, current publicly available information concerning the silver market, ongoing review of the evidentiary record, and consultation with experts. The “Instrument Multipliers” will be as follows:

- a. Physical Silver: Eligible Transactions in Physical Silver will receive a multiplier of 1.0.
- b. Silver Futures and Forwards: Eligible Transactions in exchange-traded silver futures contracts and silver forward contracts traded over-the-counter will receive a multiplier of 1.0.
- c. Silver Options: Eligible Transactions in “vanilla” options, *e.g.*, exchange-traded silver option contracts, will receive a multiplier of 0.2. OTC transactions in “digital,” “barrier” or “binary” options will be given a multiplier of 0.05.
- d. Silver Swaps: Eligible Transactions in over-the-counter silver swaps will receive a multiple of: (a) 0.2 if they involve a fixed leg, *i.e.*, an obligation to buy or sell a certain amount of silver at a fixed price; or (b) a multiplier of 1.0 if they involve a floating leg, *i.e.*, an obligation to pay or receive some amount based on a floating price, and the floating price used is the Fix Price.

ADDITIONAL ADJUSTMENTS

10. Additional adjustments are being made based on Interim Co-Lead Counsel’s assessment of the relative legal strength of the claims associated with different types of transactions, as reflected in the Court’s prior decisions in this action.

11. The Settlement with Deutsche Bank was entered into on September 6, 2016 and included claims by both purchasers and sellers of Silver Instruments for the period January 1, 1999 through September 6, 2016, the date of the Settlement (the “Settlement Class Period”). On October 3, 2016, the Court granted and denied in part Defendants’ motion to dismiss. Specifically, the Court found that Plaintiffs plausibly stated claims under the Sherman and Commodity Exchange Acts based on transactions from January 1, 2007 through December 31, 2013, but did not plausibly state

claims based on transactions that occurred outside of January 1, 2007 and December 31, 2013. *In re London Silver Fixing, Ltd. Antitrust Litig.*, 213 F Supp. 3d 540, 558 (S.D.N.Y. 2016) (the “October 3 Order”).

12. In accordance with the Court’s October 3 Order, the STV of Eligible Transactions that took place between either: (a) January 1, 1999 and December 31, 2006; or (b) January 1, 2014 and September 6, 2016, inclusive, will receive a “Time Period Multiplier” of 0.25. This Time Period Multiplier is intended to reflect the reduced value of dismissed claims associated with transactions during those two periods, including the likelihood of recovery for those dismissed claims on appeal.

13. Transactions that took place between January 1, 2007 and December 31, 2013, inclusive, will receive a Time Period Multiplier of 1.0 as those claims were sustained.

14. The Settlement Administrator will also apply separate “Exposure Multipliers” for Eligible Transactions depending on whether the Eligible Transaction would result in a long exposure (*i.e.*, one that increases in value as the results of the London Silver Fix increases) or short exposure (*i.e.*, one that increases in value as results of the London Silver Fix decreases) to the London Silver Fix. For Eligible Transactions, the STV of transactions that create a long exposure will be calculated by the Settlement Administrator with an Exposure Multiplier of 1.0, while those that create a short exposure will be assigned an Exposure Multiplier of 0.5.

15. As an example, to calculate the STV for a transaction on May 24, 2010 involving the purchase of two “vanilla” call options on COMEX silver futures contracts, the Claims Administrator would multiply: (a) 10,000 (the number ounces of silver involved in two COMEX silver option contracts according to contract specifications); (b) \$17.905 (the closing price of silver as reported by XAG on May 24, 2010); (c) 0.2 (the Instrument Multiplier associated with “vanilla” options); (d) 1.0 (the Time Period Multiplier for transactions occurring between January 1, 2007 and

December 31, 2013); and (e) 1.0 (the Exposure Multiplier for transactions that result in long exposure). This calculation results in an STV of \$ 35,810.

SETTLEMENT SHARE

16. To calculate each Authorized Claimant's pro rata share of the Net Settlement Fund (the "Settlement Share"), the Settlement Administrator will first determine the total dollar value of each Claim by totaling the STVs of the Eligible Transactions, as adjusted by the multipliers described in Paragraphs 8 through 15, above (the "Individual STV").

17. The Individual STV of all Authorized Claimants will then be added together to calculate the "Total STV".

18. Finally, the Settlement Administrator will calculate each Authorized Claimant's Settlement Share by dividing the Individual STV for that Authorized Claimant's Claim by the Total STV to generate the applicable pro rata fraction before multiplying the pro rata fraction by the Net Settlement Fund.

ALTERNATIVE MINIMUM PAYMENT

19. In consultation with Interim Co-Lead Counsel, the Settlement Administrator has determined that an Alternative Minimum Payment should be paid to Authorized Claimants where it is reasonably determined that the cost of administering the Claim would exceed the Settlement Share associated with that Claim.

20. A Claim will be eligible for the Alternative Minimum Payment when the Settlement Share is less than \$15.

21. Authorized Claimants whose Claims are eligible for the Alternative Minimum Payment will receive the minimum payment of \$15.

COURT REVIEW

22. All proceedings with respect to the administration, processing, and determination of Claims, and the determinations of all controversies relating thereto, including disputed questions of law and fact with respect to the validity of Claims, shall be subject to the jurisdiction of the Court. Those persons whose Claims are rejected by the Settlement Administrator, either in whole or in part, will be advised in writing of the reasons for the rejection, and they will have the opportunity to seek Court review of the Claim's Administrator's rejection. All Claimants expressly waive trial by jury (to the extent any such right may exist) and any right of appeal or review with respect to the Court's determination.

DISTRIBUTION

23. Following the Effective Date and after the Settlement Administrator has determined the amounts of all Authorized Claimant's Claims, Interim Co-Lead Counsel will apply to the Court for a Class Distribution Order.