

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE:

COMMODITY EXCHANGE, INC., GOLD
FUTURES AND OPTIONS TRADING
LITIGATION

This Document Relates To All Actions

Case No. 14-MD-2548 (VEC)
14-MC-2548 (VEC)

Hon. Valerie E. Caproni

**DECLARATION OF DANIEL L. BROCKETT IN SUPPORT OF PLAINTIFFS’
MOTIONS FOR ORDERS REGARDING THREE SETTLEMENT AGREEMENTS**

Pursuant to 28 U.S.C. § 1746, I, Daniel L. Brockett, declare as follows:

1. I am a member of the law firm of Quinn Emanuel Urquhart & Sullivan, LLP (“Quinn Emanuel”).
2. Attached hereto as Exhibit 1 is a true and correct copy of the proposed long-form notice for use in connection with the Third Settlement Agreement and the proposed change to the Plan of Allocation for the first two settlements.
3. Attached hereto as Exhibit 2 is a true and correct copy of the summary notice for use in connection with the Third Settlement Agreement and the proposed change to the Plan of Allocation for the first two settlements.
4. Attached hereto as Exhibit 3 is a true and correct copy of the proposed Plan of Allocation for use in connection with the Third Settlement Agreement.
5. Attached hereto as Exhibit 4 is a true and correct copy of the proposed revised Plan of Allocation for use in connection with the first two settlements, in clean form. Attached hereto as Exhibit 5 is a redline version against that originally used for the first two settlements.

6. Attached hereto as Exhibit 6 is a true and correct copy of the proposed revised Claim Form for use in connection with all three proposed settlements. Attached as Exhibit 7 is a redline version against that used originally for the first two settlements.

7. Attached hereto as Exhibit 8 is a true and correct copy of the [Proposed] Order Providing Notice to the Settlement Class and Preliminarily Approving the Plan of Allocation Regarding the Third Settlement Agreement.

8. Attached hereto as Exhibit 9 is a true and correct copy of the [Proposed] Order Regarding Notice of a Revised Plan of Allocation for the Deutsche Bank and HSBC Settlements.

9. Attached hereto as Exhibit 10 is a true and correct copy of the [Proposed] Final Judgment and Order of Dismissal as to Deutsche Bank AG.

10. Attached hereto as Exhibit 11 is a true and correct copy of the [Proposed] Final Judgment and Order of Dismissal as to HSBC Bank plc.

I declare, under penalty of perjury, that the foregoing is true and correct.

Executed November 12, 2020



Daniel L. Brockett

EXHIBIT 1

**IMPORTANT LEGAL NOTICE TO ALL MEMBERS OF THE CLASS
FORWARD TO CORPORATE HEADQUARTERS/LEGAL COUNSEL**

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE:

COMMODITY EXCHANGE, INC., GOLD FUTURES
AND OPTIONS TRADING LITIGATION

This Document Relates To All Actions

Case No. 14-MD-2548 (VEC)

14-MC-2548 (VEC)

Hon. Valerie E. Caproni

**NOTICE OF A NEW AND ADDITIONAL PROPOSED CLASS ACTION SETTLEMENT AND CLASS
MEMBERS' RIGHTS, AND NOTICE OF A NEW OPPORTUNITY TO SUBMIT CLAIMS ON PRIOR
SETTLEMENTS OR BE HEARD ON A REVISED PLAN OF ALLOCATION**

Please note that this notice covers two distinct issues. First, the notice is being sent in connection with a new and additional (third) settlement in the above-captioned action. Second, the notice is being in connection with a proposed change to the Plan of Allocation used in connection with two prior settlements. To take advantage of that change, you must file a revised claim form. Your views on the proposed change are also being solicited.

Please read this entire notice carefully, as your rights may be impacted regardless of how you may (or may not) have responded with respect to the first two settlements.

TO: All persons or entities who during the period from January 1, 2004 through June 30, 2013, either (A) sold any physical gold or financial or derivative instrument in which gold is the underlying reference asset, including, but not limited to, those who sold (i) gold bullion, gold bullion coins, gold bars, gold ingots or any form of physical gold, (ii) gold futures contracts in transactions conducted in whole or in part on COMEX or any other exchange operated in the United States, (iii) shares in gold exchange-traded funds ("ETFs"), (iv) gold call options in transactions conducted over-the-counter or in whole or in part on COMEX or any other exchange operated in the United States; (v) gold spot, gold forwards or gold swaps over-the-counter; or (B) bought gold put options in transactions conducted over-the-counter or in whole or in part on COMEX or on any other exchange operated in the United States.

PLEASE READ THIS ENTIRE NOTICE CAREFULLY.

A UNITED STATES FEDERAL COURT AUTHORIZED THIS NOTICE. YOUR RIGHTS MAY BE AFFECTED BY THE PROCEEDINGS IN THIS ACTION. THIS NOTICE ADVISES YOU OF YOUR RIGHTS AND OPTIONS WITH RESPECT TO THIS ACTION, INCLUDING WHAT YOU MUST DO IF YOU WISH TO SHARE IN THE PROCEEDS OF THE SETTLEMENT.

If you are a brokerage firm, dealer, or trustee through whom Gold Investments were traded from January 1, 2004 through March 20, 2015, inclusive, on behalf of customers that are members of the Settlement Class as defined in Section I.C. below, please provide the name and last known address of such customers to the Settlement Administrator at the address listed in Section VIII below within two weeks of receiving this Notice. The Settlement Administrator will cause copies of this Notice to be forwarded to each customer identified at the address so designated. In the alternative, contact the Settlement Administrator for physical or electronic copies of this Notice, so that you may send them directly to customers.

This Notice of Proposed Class Action Settlement and Class Members' Rights ("Notice") is given pursuant to Rule 23 of the Federal Rules of Civil Procedure and an Order of the United States District Court for the Southern District of New York (the "Court"). It is not junk mail, an advertisement, or a solicitation from a lawyer. You have not been sued. The

Questions? Call 1-844-271-4787 or Visit www.GoldFixSettlement.com

purpose of this Notice is to inform you of the pendency of the above-captioned class action and your rights in connection with the proposed Settlement and release of the claims asserted.

A class action is a lawsuit in which one or more representative plaintiffs (in this case, Plaintiffs) bring a lawsuit on behalf of themselves and other similarly situated persons (i.e., a class) who have similar claims against the defendants. The representative plaintiffs, the court, and counsel appointed to represent the class have a responsibility to make sure that the interests of class members are adequately represented.

You are receiving this Notice because records indicate that you may have transacted in one or more Gold Investments during the Settlement Class Period and may be a Settlement Class Member in this class action.

PLEASE DO NOT CONTACT THE COURT REGARDING THIS NOTICE. Inquiries concerning this Notice or any other questions by Settlement Class Members should be directed to:

Gold Fixing Settlement c/o Kroll Settlement Administration

P.O. Box 8519,

Philadelphia, PA 19101-8519

Tel.: 1-844-271-4787 (if calling from outside the United States or Canada, call 1-267-238-9078)

Email: info@GoldFixSettlement.com

Website: www.GoldFixSettlement.com

The “Newly Settling Defendants” are Barclays Bank PLC, The Bank of Nova Scotia, Société Générale, and The London Gold Market Fixing, and certain subsidiaries and affiliates. All Defendants denied and continue to deny Plaintiffs’ claims. By entering into their respective settlements, Defendants have not admitted to any liability, fault, or wrongdoing of any kind in connection with the allegations in the Action, and nothing in the Settlement Agreements or this Notice shall be construed as such an admission. To resolve all Released Claims against all Released Parties, the Newly Settling Defendants have paid into escrow a total of \$50 million.¹

There were previously two settlements (the “Original Settlements”) in this Action, with Deutsche Bank AG and HSBC Bank plc and their subsidiaries and affiliates (the “Original Settling Defendants”). The Original Settling Defendants had agreed to pay a total of \$102 million. The Original Settlements have been given final approval. As discussed in Section IX, this notice is also to alert class members of a proposed change to the Plan of Allocation, and a resulting new opportunity to submit additional or new claims, or to object to the revised Plan of Allocation, in connection with the Original Settlements.

If all three settlements are given final approval by the Court, the total recovery in this action would be \$152 million. All claims would be resolved, as all Defendants are now parties to a settlement agreement. The Court has preliminarily approved the Third Settlement Agreement with the Newly Settling Defendants. The Court will review and determine whether to grant Final Approval of the Third Settlement Agreement. The Court has appointed the lawyers listed below to represent you and the Settlement Class in this Action (“Co-Lead Counsel”):

<p>Merrill Davidoff Berger Montague PC 1818 Market Street, Suite 3600 Philadelphia, PA 19103</p>	<p>Daniel Brockett Quinn Emanuel Urquhart & Sullivan LLP 51 Madison Avenue, 22nd Floor New York, NY 10010</p>
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Fairness Hearing and Right to Object. The Court has scheduled a public hearing on final approval of the Third Settlement Agreement for [[MONTH DAY YEAR]]. The purpose of the Fairness Hearing is to determine, among other things, whether the Third Settlement Agreement, the Plans of Allocation proposed for both the Original Settlements and the Third Settlement Agreement, and the application by Plaintiffs’ Co-Lead Counsel for attorneys’ fees and payment of expenses in connection with the Third Settlement Agreement, are all fair, reasonable, and adequate. If you remain in the Settlement Class, then you may object. **All objections must be made in accordance with the instructions set forth below, and they must be filed with the Court and served on or before [[MONTH DAY YEAR]] or they will not be**

¹ Capitalized terms not otherwise defined herein shall have the same meanings assigned to them in the Third Settlement Agreement.

considered. See Section III below.

Right to Submit a Claim. If you believe you are a Settlement Class Member and believe you have qualifying transactions, you have the right to submit a Proof of Claim and Release Form to the Claims Administrator. A Proof of Claim and Release Form is attached to this Notice. Proof of Claim and Release Forms must be mailed or submitted electronically by [[MONTH DAY YEAR]]. However, as discussed in Section III below, claim forms submitted in connection with the Original Settlements will be treated as having been also submitted in connection with the Third Settlement Agreement, unless the Settlement Administrator is directed otherwise by the relevant Settlement Class Member.

Right to Exclude Yourself from the Settlement Class. The Court will exclude you from the Settlement Class in connection with the Third Settlement Agreement if you make a written request for exclusion from the Third Settlement Agreement that is mailed to the Settlement Administrator (Kroll Settlement Administration, f/k/a Heffler Claims Group) at the address set forth in Section VIII below and received no later than [[MONTH DAY YEAR]]. See Section III. **To be valid, the request for exclusion must comply with the requirements set forth in the Court’s Order dated [[MONTH DAY YEAR]] (the “Order”) and summarized in Section III below.** If you exclude yourself from the Settlement Class, you will be free to sue the Newly Settling Defendants or any of the other Released Parties in the Third Settlement Agreement on your own for the claims being resolved by the Third Settlement Agreement. However, you will not receive any money from the Third Settlement Agreement, and Co-Lead Counsel will no longer represent you with respect to any claims against the Newly Settling Defendants. If you want to receive money from the Third Settlement Agreement, do not exclude yourself.

To be clear, even if you excluded yourself from the Original Settlements, you must follow the requirements herein to also exclude yourself in connection with the Third Settlement Agreement if you do not wish to remain a part of the Settlement Class with respect to the Third Settlement Agreement.

I. BACKGROUND OF THE LITIGATION

A. The Nature of the Litigation

Plaintiffs allege that, from January 1, 2004 through June 30, 2013 inclusive (the “Settlement Class Period”), Defendants conspired to drive down the price of gold around the time of a daily, secret, and unregulated afternoon meeting (the “PM Gold Fix”). The PM Gold Fix was intended to determine the global benchmark price per ounce of gold (the “Fix price”) based on supply and demand fundamentals stemming from a competitive gold auction among the Fixing members. However, Defendants allegedly capitalized on the lack of regulatory oversight and the private nature of the PM Gold Fix to facilitate Defendants’ agreement to manipulate and fix gold prices and the prices of Gold Investments during the Settlement Class Period. Defendants’ conduct harmed other market participants like Plaintiffs and the Settlement Class. “Gold Investments” means (i) gold bullion, gold bullion coins, gold ingots, gold bars, or any other form of physical gold, (ii) gold futures contracts in transactions conducted in whole or in part on COMEX or any other exchange operated in the United States (iii) shares in gold ETFs, (iv) gold call options in transactions conducted over-the-counter or in whole or in part on COMEX or any other exchange operated in the United States (v) gold put options in transactions conducted over-the-counter or in whole or in part on COMEX or any other exchange operated in the United States, and (vi) gold spot, gold forwards, or gold swaps traded over-the-counter.

The Defendants, by virtue of their overt but non-public interactions in connection with the daily Gold Fixing, were uniquely positioned to effectively “name their own” Fix price and thereby to gain an unfair advantage with respect to the contracts, derivatives, and physical positions that they held in the market, all of which were correlated to the Fix price in one way or another. In particular, Plaintiffs allege that Defendants were motivated to profit, and did in fact profit, from their intentional and coordinated suppression of gold prices around the PM Fixing, which had the effect of depressing prices for Gold Investments. Plaintiffs allege that Defendants effectuated their conspiracy in several ways. For example, leading up to the PM Fixing, Defendants allegedly collected confidential client order information and then improperly shared that information amongst themselves in order to compare and coordinate the execution of particularly large sell trades, thereby driving down the gold spot price immediately before and during the Fixing call. During the Fixing window itself, Plaintiffs allege that Defendants offered “rigged” auction rates that were either fabricated or artificially depressed by Defendants’ prior coordination of large sell orders, which had the effect of magnifying a downward effect in the resulting Fix price. Defendants also allegedly communicated with each other throughout the day through phone calls, chat rooms, and other forms of electronic communication to coordinate trading (including to “net off” large buy orders) in order to ensure that their efforts to drive down the gold price were not undone by counteracting trading activity. Plaintiffs further allege that

Defendants used manipulative trading tactics such as “spoofing” (sending false signals to the market by placing large orders that were never executed), “wash sales” (placing large orders that are executed and then quickly reversed), and “front running” of customer orders in order artificially to suppress the price of gold.

Plaintiffs have asserted legal claims under federal antitrust law for price fixing and unlawful restraint of trade; under the Commodity Exchange Act for price manipulation, manipulation by false reporting and fraud and deceit, aiding and abetting and principal-agent liability; and under the common law.

Plaintiffs and Plaintiffs’ Co-Lead Counsel believe that Settlement Class Members have been damaged by Defendants’ conduct. Defendants do not agree with the allegations made by Plaintiffs, believe that they have meritorious defenses to Plaintiffs’ allegations, and believe that certain of Plaintiffs’ claims would have been rejected prior to trial, at trial (had Plaintiffs successfully certified a class and survived summary judgment motions), or on appeal. As a result, Defendants believe Settlement Class Members would have received nothing if the litigation had continued to trial.

The Court has not decided for or against Plaintiffs or Defendants. Instead, Plaintiffs’ Co-Lead Counsel engaged in negotiations with the Defendants to reach a negotiated resolution of the claims. The Original Settlements and the Third Settlement Agreement allow Plaintiffs and Defendants to avoid the risks and costs of lengthy litigation and the uncertainty of pre-trial proceedings, a trial, and appeals. If approved, the settlements would permit eligible Settlement Class Members, who file timely and valid Proof of Claim and Release Forms, to receive compensation, rather than risk ultimately receiving nothing. Plaintiffs and Plaintiffs’ Co-Lead Counsel believe the settlements, including the Third Settlement Agreement, are in the best interest of all Settlement Class Members.

If the Third Settlement Agreement is finally approved, the resulting \$50 million additional Settlement Fund, plus interest earned from the date it was established, less any Taxes, any Notice and Administration Costs, any Court-awarded attorneys’ fees, litigation costs and expenses, Incentive Awards for Plaintiffs, and any other costs or fees approved by the Court (the “Net Settlement Fund”), will be divided among all Settlement Class Members who file valid Proof of Claim and Release Forms. If the Third Settlement Agreement is finally approved, the Action will conclude against the Newly Settling Defendants, and the Newly Settling Defendants will be released from claims concerning this lawsuit, as described more fully below. If the Third Settlement Agreement is not approved, the Newly Settling Defendants will remain in the Action, and Plaintiffs will continue to pursue their claims against the Newly Settling Defendants.

If the Original Settlements and the Third Settlement Agreement are all finally approved, that would bring the total recoveries in the Action to \$152 million, and the case would come to a close.

B. Procedural History

On August 13, 2014, the United States Judicial Panel on Multidistrict Litigation issued a Transfer Order consolidating similar actions pertaining to the downward suppression of gold prices around the PM Fixing before Judge Caproni in the Southern District of New York. On August 20, 2014, the Court ordered that the Actions be consolidated for all pretrial purposes pursuant to Rule 42(a) of the Federal Rules of Civil Procedure and reaffirmed the appointment of Quinn Emanuel Urquhart & Sullivan, LLP and Berger Montague, P.C. as Interim Co-Lead Counsel.

Thereafter, on March 16, 2015, Class Plaintiffs filed a Second Consolidated Amended Class Action Complaint against Defendants asserting claims under the Sherman Act, the Commodity Exchange Act, and for unjust enrichment. On April 30, 2015, Defendants moved to dismiss the Second Consolidated Amended Class Action Complaint.

On October 3, 2016, the Court granted UBS’s motion to dismiss and granted the Fixing Banks’ motion to dismiss in part. Specifically but without limitation, the Court dismissed all claims arising from sales of gold exchange-traded funds, and limited the claims to the period of January 1, 2006 through December 1, 2012. The Court also denied in part the Fixing Bank’s motion to dismiss Plaintiffs’ antitrust claims for price fixing and unlawful restraint of trade, and Plaintiffs’ Commodity Exchange Act claims.

On December 2, 2016, Plaintiffs moved for preliminary approval of the Settlement with Deutsche Bank, which the Court granted on December 9, 2016.

On June 16, 2017, Plaintiffs filed a Third Consolidated Amended Class Action Complaint adding additional allegations against UBS and as to certain years of the class period. On July 25, 2018, the Court granted UBS AG and UBS Securities LLC’s motion to dismiss Plaintiffs’ third consolidated amended class action complaint. Plaintiffs’ claims against other non-settling Defendants remain.

On May 24, 2019, the Court entered an amended fact discovery schedule that set a July 31, 2020 fact discovery completion deadline. On February 19, 2020, the Court amended the discovery schedule and set a December 11, 2020, fact discovery completion deadline and a Pretrial Conference date of December 18, 2020. On August 4, 2020, in light of delays caused by the COVID-19 pandemic, the Court amended the discovery schedule and set a May 26, 2021, fact discovery completion deadline and a Pretrial Conference date of June 9, 2021.

On December 7, 2020, Plaintiffs moved for preliminary approval of the Settlement with HSBC, which the Court granted on February 12, 2021.

Around March 2021, notice for the Original Settlements commenced.

On July 9, 2021, motions to finally approve the Original Settlements, and for fee and expense awards in connection with the Original Settlements, were filed.

In August 2021, the claims, objection, and exclusion deadlines in connection with the Original Settlements passed.

On [[]], the Court granted final approval to the Original Settlements, and preliminary approval to the Third Settlement Agreement.

C. The Definition of the Settlement Class

The Settlement Class is defined as:

All persons or entities who during the period from January 1, 2004 through June 30, 2013, either (A) sold any physical gold or financial or derivative instrument in which gold is the underlying reference asset, including, but not limited to, those who sold (i) gold bullion, gold bullion coins, gold bars, gold ingots or any form of physical gold, (ii) gold futures contracts in transactions conducted in whole or in part on COMEX or any other exchange operated in the United States, (iii) shares in gold exchange-traded funds (“ETFs”), (iv) gold call options in transactions conducted over-the-counter or in whole or in part on COMEX or any other exchange operated in the United States; (v) gold spot, gold forwards or gold swaps over-the-counter; or (B) bought gold put options in transactions conducted over-the-counter or in whole or in part on COMEX or on any other exchange operated in the United States.

Excluded from the Settlement Class are Defendants, their officers, directors, management, employees, affiliates, parents, subsidiaries, and co-conspirators, whether or not named in the Action, and the United States Government, and other governments. Also excluded is the Judge presiding over this action, her law clerks, spouse, and any person within the third degree of relationship living in the Judge’s household and the spouse of such a person.

If you are not sure whether you are included in the Class, you can ask for free help. You can call toll-free 1-844-271-4787 (if calling from outside the United States or Canada, call 1-267-238-9078) or visit www.GoldFixSettlement.com for more information.

II. SUMMARY OF THE PROPOSED SETTLEMENT

A. The Settlements

Plaintiffs have entered into a single Third Settlement Agreement covering all Newly Settling Defendants. The Newly Settling Defendants will pay \$50 million, total, creating the Settlement Fund associated with the Third Settlement Agreement.

The following description of the proposed Third Settlement Agreement is only a summary. This description and this Notice are qualified in their entirety by agreement itself, which is on file with the Court at the address indicated in this Notice and is available on the official website for the Original Settlements and the Third Settlement Agreement, at www.GoldFixSettlement.com (the “Settlement Website”). In the event of any conflict between any settlement agreement and this Notice, the terms of the relevant agreement shall control.

No Right to Reversion. The Third Settlement Agreement does not provide the Newly Settling Defendants with a right of reversion. That is, no matter how many Settlement Class Members fail to file a Proof of Claim and Release Form or choose to opt-out, if the Third Settlement Agreement is not terminated and is finally approved by the Court, none of the Settlement monies will revert to the Newly Settling Defendants. This is not a claims-made settlement; there will be no

reversion.

Newly Settling Defendants' Potential Right To Reduction or Termination. In certain circumstances, Newly Settling Defendants have the right to request a modification of the Third Settlement Amount or to terminate the Third Settlement Agreement. The right to seek reduction or terminate is set forth at Section 10 of the Third Settlement Agreement. If Newly Settling Defendants assert that the total Requests for Exclusion represent a material portion of the transactions during the Settlement Class Period that would be eligible for compensation under the Settlement and such exclusion(s) would materially reduce the value of the Third Settlement Agreement to the Newly Settling Defendant, Newly Settling Defendants have the option to present the issue to a jointly-selected mediator. In the event the mediator determines some reduction in the Settlement Amount is appropriate, the Settlement Amount may be reduced.

Newly Settling Defendants may alternately seek to terminate the Third Settlement Agreement by making an application for termination to the mediator. Upon such application, the mediator shall determine if the reduction remedy set forth above is not adequate to preserve the essential benefit of the Third Settlement Agreement to the Settling Defendant making such application. Should the settlement be terminated, the Parties would revert to their respective status as of the date they executed the Third Settlement Agreement.

If Newly Settling Defendants do not invoke Section 10 of the Third Settlement Agreement, all Settlement Funds are "non-reversionary," which means that the Newly Settling Defendants do not have a right to claw back any portion of the Settlement Fund.

Plan of Allocation. The amount of your payment will be determined by the Plan of Allocation approved by the Court. Generally speaking, the Plan of Allocation will allocate the Net Settlement Fund equitably among Authorized Claimants on a *pro rata* basis based on the total qualifying claim amounts, adjusted for certain factors, such as the time period and type of the Authorized Claimants' transactions. If, as an Authorized Claimant, your total distribution is below a minimum threshold, you may instead receive an Alternative Minimum Payment. The Alternative Minimum Payment will be a set amount for all such Authorized Claimants. For more details and regular updates regarding the Plan of Allocation and the settlement process, please visit the Settlement Website at www.GoldFixSettlement.com.

Though the Original Settlements themselves were finally approved, the Court has not given final approval to the Plans of Allocation for either the Original Settlements or the Third Settlement Agreement. This is because, as discussed in Section IX below, there has been a proposed change to the Plans. The Court has decided to afford a new opportunity for Settlement Class Members to be heard with respect to the Plans of Allocation in connection with all three settlements.

The Plan of Allocation for any or all of the settlements may change without further notice, or a renewed right to object to the changes.

Changes or Further Orders by the Court. Any change to the time and place of the Fairness Hearing, the Plans of Allocation, or any other matter, and all further orders or requirements by the Court will be posted on the Settlement Website at www.GoldFixSettlement.com as soon as practicable. It is important that you refer to the Settlement Website often as no other notice may be published of such changes.

B. The Release and Covenant Not to Sue under the Settlement Agreement

IF YOU HAVE NOT VALIDLY REQUESTED TO BE EXCLUDED FROM THE SETTLEMENT CLASS, WHEN THE SETTLEMENT BECOMES FINAL YOU WILL BE RELEASING NEWLY SETTLING DEFENDANTS AND THE RELEASED PARTIES FROM THE CLAIMS DESCRIBED BELOW, AND YOU WILL BE BOUND BY THE RELEASES IN THE THIRD SETTLEMENT AGREEMENT INCLUDING THE COVENANT NOT TO SUE THE RELEASED PARTIES

A REQUEST FOR EXCLUSION IN CONNECTION WITH THE ORIGINAL SETTLEMENTS DOES NOT EFFECTUATE AN EXCLUSION FROM THE THIRD SETTLEMENT AGREEMENT.

Unless you exclude yourself, you remain a Settlement Class Member. That means you cannot sue, continue to sue, assist a third-party in suing, or be part of any other lawsuit about the Released Claims in this Action against the Settling Newly Defendant Released Parties. Upon the Effective Date, the Plaintiff Releasing Parties shall release and be deemed to release and forever discharge and shall be forever enjoined from prosecuting the Released Claims against the Newly Settling Defendant Released Parties, regardless of whether such Plaintiff Releasing Party executes and delivers a Proof of Claim and Release Form.

Questions? Call **1-844-271-4787** or Visit www.GoldFixSettlement.com

The capitalized terms used in this paragraph are defined in the Third Settlement Agreement, Preliminary Approval Orders, or this Notice. For easy reference, certain of these terms are copied below:

- “Released Parties” means each Newly Settling Defendant, and all of its respective past or present direct and indirect corporate parents (including holding companies), subsidiaries, related entities and affiliates, associates (all as defined in SEC Rule 12b-2 promulgated pursuant to the Securities Exchange Act of 1934), predecessors, successors, and all of their respective officers, directors, partners, managing directors, employees, agents, contractors, attorneys, legal or other representatives, trustees, trusts, heirs, beneficiaries, estates, executors, administrators, insurers, shareholders, advisors, and assigns.
- “Releasing Parties” means individually and collectively each Settlement Class Member, on behalf of themselves and any of their respective past or present officers, directors, stockholders, agents, employees, legal representatives, partners, associates, trustees, parents, subsidiaries, divisions, affiliates, heirs, executors, administrators, purchasers, predecessors, successors, and assigns, regardless of whether the Settlement Class Member submits any claim for payment or receives any such payment pursuant to any claims process that may be established and approved by the Court. In the case of a Settlement Class Member that is an Employee Benefit Plan (or a fiduciary acting on behalf of an Employee Benefit Plan), the terms of this Agreement shall bind the Employee Benefit Plan and all Persons who may have any claim by reason of their relationship with the Employee Benefit Plan, including all of its fiduciaries, beneficiaries and participants.
- “Released Claims” means any and all manner of claims, causes of action, cross claims, and shall include Unknown Claims, causes of action, crossclaims, counter-claims, charges, liabilities, demands, judgments, suits, obligations, debts, setoffs, rights of recovery, or liabilities for any obligations of any kind whatsoever (however denominated), whether class or individual, in law or equity or arising under constitution, statute, regulation, ordinance, contract, or otherwise in nature, for fees, costs, penalties, fines, debts, expenses, attorneys’ fees, and damages, whenever incurred, and liabilities of any nature whatsoever (including joint and several), known or unknown, suspected or unsuspected, asserted or unasserted, which any Class Plaintiffs or Settlement Class Members ever had, now has, or hereafter can, shall or may have, representatively, derivatively or in any other capacity, against the Released Parties arising from or relating in any way to conduct alleged in the Action or that could have been alleged in the Action, in any event arising from the same factual predicate of the Action, and concerning, relating to or arising out of any Gold Investment Transaction from January 1, 2004, through March 20, 2015.

Unless you exclude yourself from the Settlement Class for the Third Settlement Agreement, you will be bound by past and any future Court rulings, including rulings on that Settlement and Released Claims relating to that Third Settlement Agreement. Unless you exclude yourself from the Settlement Class for the Third Settlement Agreement, you will not be able to start a lawsuit, continue with a lawsuit, or be a part of any other lawsuit against the Newly Settling Defendants or any of the other Newly Settling Defendant Released Parties on the basis of the Released Claims in the Third Settlement Agreement. The Third Settlement Agreement does not settle or compromise any claims other than those set out therein. All rights of the Plaintiffs or any Settlement Class Member against any person or entity other than the parties released in the Third Settlement Agreement are specifically reserved by the Plaintiffs and the Class Members.

III. YOUR OPTIONS

Do Nothing (those who did not already submit a claim). If you are a Settlement Class Member and you did not submit a claim in connection with the Original Settlements, and you continue to do nothing, you will not get any money from any Settlement. Unless you exclude yourself from the Third Settlement Agreement, you will not be able to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against the Newly Settling Defendants or the Newly Settling Defendant Released Parties about the legal issues in this case. You will remain in the Settlement Class and be bound by the decisions of the Court in this matter regarding the Third Settlement Agreement.

Do nothing (prior claimants). If you are a Settlement Class Member and you submitted a claim in connection with the Original Settlements, unless you direct the Settlement Administrator otherwise, your information will automatically be treated as if also submitted in connection with the Third Settlement Agreement. Thus, if you already have submitted a claim, you need not re-submit the same information. If you have questions on whether you already submitted a claim, please contact the Settlement Administrator.

Submit a new or revised claim. If you are a Settlement Class Member and you submitted a claim in connection with the Original Settlements, you may also submit a revised claim, including without limitation to potentially supplement your claim with information on positions opened and closed on the same day. See Section IX below. Even if you did not submit a claim in connection with the Original Settlements, you can still do so. An updated Proof of Claim and Release Form is attached to this Notice. You may also get an updated Proof of Claim and Release Form electronically through the settlement website, www.GoldFixSettlement.com, or by contacting the Settlement Administrator by telephone toll-free at 1-844-271-4787 (if calling from outside the United States or Canada, call 1-267-238-9078). Proof of Claim and Release Forms must be mailed or submitted electronically by [[MONTH DAY YEAR]].

By default, any claim form that has or will be submitted will be treated as being submitted in connection with all three settlements, unless (a) the Settlement Class Member requested an exclusion from a Settlement, or (b) the Settlement Class Member otherwise contacts the Settlement Administrator to provide alternative instructions.

Object. The deadline for objecting to the Original Settlements and Co-Lead Counsel's request for fees and expenses in connection with the Original Settlements has passed.

However, if you are a Settlement Class Member and you do not exclude yourself, you can tell the Court what you think about the Plans of Allocation for the Original Settlements and the Third Settlement Agreement. If you are a Settlement Class Member and you do not exclude yourself, you can also tell the Court what you think about the Third Settlement Agreement, any application for attorneys' fees, reimbursement of litigation costs and expenses requested in connection with the Third Settlement Agreement, and/or any service or incentive awards for Plaintiffs requested in connection with the Third Settlement Agreement. You can give reasons why you think the Court should approve them or not. The Court will consider your views.

If you want to make any such objection, you may enter an appearance in the Action, at your own expense, individually or through counsel of your own choice, by filing with the Clerk of Court a notice of appearance and your objection, and serving copies of your objection on Plaintiffs' Co-Lead Counsel and the Newly Settling Defendants' Counsel by [[MONTH DAY YEAR]] to the following mailing addresses:

<i>Plaintiffs' Interim Co-Lead Counsel</i>	
Merrill Davidoff Berger Montague PC 1818 Market Street, Suite 3600 Philadelphia, PA 19103	Daniel Brockett Quinn Emanuel Urquhart & Sullivan LLP 51 Madison Avenue, 22nd Floor New York, NY 10010
<i>The Bank of Nova Scotia Counsel</i>	<i>Barclays Bank PLC Counsel</i>
Stephen Ehrenberg Sullivan & Cromwell LLP 125 Broad Street New York, NY 10004	Todd S. Fishman Allen & Overy LLP 1221 Avenue of Americas New York, NY 10020 Michael S. Feldberg Reichman Jorgensen Lehman & Feldberg LLP 750 Third Avenue, 24th Floor New York, NY 10017
<i>Société Générale Counsel</i>	<i>The London Gold Market Fixing Limited Counsel</i>
Marc J. Gottridge Herbert Smith Freehills New York LLP 450 Lexington Avenue New York, NY 10017	James V. Masella, III Patterson Belknap Webb & Tyler LLP 1133 Avenue of the Americas New York, New York 10036

If you choose to object, you must file a written objection with the Clerk of the Court. You cannot file an objection by

telephone or email. Your written objection must include a statement of the objection, as well as the specific legal and factual reasons for each objection, including all support that the objecting Class Member or the governmental entity wishes to bring to the Court's attention and all evidence the objecting Class Member or governmental entity wishes to introduce in support of his, her, or its objection. The submission must contain: (i) a heading that refers to this Action by case name and case number (IN RE: COMMODITY EXCHANGE, INC., GOLD FUTURES AND OPTIONS TRADING LITIGATION, Nos. 14-MD-2548 (VEC) (S.D.N.Y.)); (ii) a statement of the specific legal and factual basis for each objection, including whether the objection applies only to the objecting person, a specific subset of the Settlement Class, or the entire Settlement Class; (iii) a statement of whether the objecting person or entity intends to appear at the Fairness Hearing, either in person or through counsel and, if through counsel, a statement identifying that counsel by name, address, and telephone number; (iv) a description of any and all evidence the objecting person or entity may offer at the Fairness Hearing, including but not limited to the names, addresses, and expected testimony of any witnesses; all exhibits intended to be introduced at the Fairness Hearing; and documentary proof of the objecting person's membership in the Settlement Class; (v) a description of the Gold Investment transactions entered into by the member of the Settlement Class that fall within the Settlement Class definition; and (vi) a list of other cases in which the objector or counsel for the objector has appeared either as an objector or counsel for an objector in the last five years. Persons who have timely submitted a valid Request for Exclusion are not Class Members and are not entitled to object with respect to the Settlements they excluded themselves from. All written objections must be signed by the Class Member (or his, her, or its legally authorized representative), even if the Class Member is represented by counsel.

If you do not timely and validly submit your objection, your views will not be considered by the Court or any court on appeal. Check the Settlement Website at www.GoldFixSettlement.com for updates on important dates and deadlines relating to the Original Settlements and the Third Settlement Agreement.

Request to be Excluded from the Settlement Class for the Third Settlement Agreement. The deadline for exclusion requests in connection with the Original Settlements has passed. However, regardless of what actions you did or did not take with respect to the Original Settlements, you can still exclude yourself from the Settlement Class with respect to the Third Settlement Agreement by sending a written "Request for Exclusion." You cannot exclude yourself by telephone or email. Your written Request for Exclusion must contain: (a) the name, address, and telephone number of the Settlement Class Member; (b) a list of all trade names or business names that the Settlement Class Member requests to be excluded; (c) the name and case number of this Action (*IN RE: COMMODITY EXCHANGE, INC., GOLD FUTURES AND OPTIONS TRADING LITIGATION*, Nos. 14-MD-2548 (VEC) (S.D.N.Y.)); (d) a statement certifying such person is a Settlement Class Member; (e) a description of the Gold Investment transactions entered into by the Settlement Class Member that fall within the Settlement Class definition; and (f) a statement that "I/we hereby request that I/we be excluded from the Settlement Class with respect to the Third Settlement Agreement." If you are unwilling or unable to provide a description of the Gold Investment transactions, your Request for Exclusion must contain a short explanation as to why you are unwilling or unable to do so. The Court will decide on a case-by-case basis, depending on the strength of your explanation, whether your Request for Exclusion is effective despite the lack of disclosure.

A Request for Exclusion that does not include all of the foregoing information (or an explanation as to undisclosed transaction information), that does not contain the proper signature, that is sent to an address other than the one designated below, or that is not sent within the time specified shall be invalid and the person(s) filing such an invalid request shall stay a Settlement Class Member and shall be bound by the Third Settlement Agreement, if approved. Requests for Exclusion from the Settlement Class must be sent by U.S. first class mail (preferably certified mail) (or, if sent from outside the U.S., by a service that provides for guaranteed delivery within five (5) or fewer calendar days of mailing) to the Settlement Administrator at:

Gold Fixing Settlement EXCLUSIONS
c/o Kroll Settlement Administration
P.O. Box 8519, Philadelphia, PA 19101-8519

Requests for exclusion must be received no later than [[Month Day Year]].

If you submit a valid and timely Request for Exclusion in the manner set forth above, you will not be bound by the Third Settlement Agreement and can independently pursue claims you may have against the Newly Settling Defendants at your own expense. However, if you exclude yourself from the Third Settlement Agreement, you will not be eligible to share in the Net Settlement Fund created by the Third Settlement Agreement and shall have no rights under the Third Settlement

Agreement. In addition, if you exclude yourself from the Settlement Class, you will not be entitled to object to the Third Settlement Agreement or to appear at the Fairness Hearing with respect to the Third Settlement Agreement.

Excluding yourself from the Original Settlements has no impact on your rights with respect to the Third Settlement Agreement. Likewise, excluding yourself from the Third Settlement Agreement will not retroactively alter your rights with respect to the Original Settlements. Importantly, this means that if you wish to be excluded from the Third Settlement Agreement, you must file an exclusion request following the instructions above *even if* you previously filed a similar exclusion request in connection with the Original Settlements.

IV. ATTORNEYS' FEES AND COSTS

Settlement Class Members are not personally responsible for payment of attorneys' fees or expenses. The Court has awarded certain attorneys' fees and expenses in connection with the Original Settlements. However, as additional compensation for their time and their risk in prosecuting the litigation on a wholly contingent fee basis for over seven years, Plaintiffs' Interim Co-Lead Counsel will ask the Court for an additional award of attorneys' fees in connection with the Third Settlement Agreement in an amount not to exceed \$16,640,000, an amount that would bring fees in the action to 29.5% of the total case recoveries. Co-Lead Counsel will also ask the Court for an additional award for still-unreimbursed litigation costs and expenses, which Co-Lead Counsel currently estimate to be less than \$3,500,000. Co-Lead Counsel's actual requests may vary. In addition, Co-Lead Counsel will ask the Court for interest on such attorneys' fees, costs and expenses at the same rate as the earnings in the Settlement Fund, accruing from the inception of the Settlement Fund until the attorneys' fees and Litigation Expenses are paid, all to be deducted from the Settlement Fund. Co-Lead Counsel may apply for payment from the Settlement Fund for an "Incentive Award" to those who served as named Plaintiffs in the Action. Plaintiffs may seek reimbursement of their own expenses and compensation for their time devoted to this litigation in the aggregate amount to be determined by the Court and paid from the Settlement Fund. Co-Lead Counsel may also apply at the time of any application for distribution to qualifying members of the Settlement Class, for an award from the Settlement Fund of attorneys' fees for services performed and reimbursement of expenses incurred in connection with the administration of the Settlement Agreement after the date of the Fairness Hearing.

V. FAIRNESS HEARING AND RIGHT TO OBJECT

The Court has scheduled a Fairness Hearing for [[MONTH DAY]], 2022 at [[TIME]] to be held at the Thurgood Marshall United States Courthouse, 40 Foley Square, New York, New York, Courtroom 443. Given the current COVID-19 situation, the Court reserves the right to conduct the final fairness hearing remotely. The Court currently expects to allow participants to attend using the following dial-in information: 1-888-363-4749, using the access code 3121171, and the security code 2548. At the Fairness Hearing, the Court will determine, among other things, if the proposed Third Settlement Agreement is fair, reasonable, and adequate. The Court will also consider Plaintiffs' Interim Co-Lead Counsel's second request for attorneys' fees and reimbursement of litigation expenses in connection with the Third Settlement Agreement. The Court may also consider the Plans of Allocation for all three settlements.

The time and date of the Fairness Hearing may be continued from time to time without further notice and you are advised to confirm the time and location if you wish to attend. The process for attending remotely may also change without further notice. However, as soon as practicable after any change in the scheduled date and time or remote-access procedures, such change will be posted on the Settlement Website.

If you are a Class Member, you are entitled to appear, in person or through duly authorized attorneys, and to show cause why the Settlement or other applications should or should not be approved. However, if you wish to appear, you must submit a written statement, along with any materials you wish the Court to consider—see Section III above. This written statement must be received by the Court (at the address provided above) no later than [[MONTH DAY]], 2022, or it will not be considered. Such materials must also be served on Plaintiffs' Interim Co-Lead Counsel and counsel of record for the Newly Settled Defendants at the addresses set forth in Section III by overnight mail or by hand or they will not be considered.

VI. CHANGE OF ADDRESS

If this Notice reached you at an address other than the one on the mailing label, or if your address changes, please enter your current information online at www.GoldFixSettlement.com, or send it to the Settlement Administrator at the address set forth in Section VIII below.

VII. THE SETTLEMENT ADMINISTRATOR

Questions? Call 1-844-271-4787 or Visit www.GoldFixSettlement.com

The Court has appointed Kroll Settlement Administration the Settlement Administrator. Among other things, the Settlement Administrator is responsible for providing notice of the Settlement to the Settlement Class and processing Proof of Claim and Release Forms. You may contact the Settlement Administrator through the Settlement Website, by telephone toll free at 1-844-271-4787 (if calling from outside the United States or Canada, call 1-267-238-9078), or by writing to the Settlement Administrator at the following address: Gold Fixing Settlement, c/o Kroll Settlement Administration, P.O. Box 8519, Philadelphia, PA 19101-8519.

VIII. ADDITIONAL INFORMATION

The Settlement Agreement and other important documents related to these Actions are available online at www.GoldFixSettlement.com and also available for review during normal business hours at the office of the Clerk of Court, United States District Court for the Southern District of New York, 500 Pearl Street, New York, New York 10007-1312. If you have questions about this Notice, the procedure for registering, or the Settlement Agreements, you may contact Plaintiffs' Interim Co-Lead Counsel at the address listed in Section III.

IX. NEW CLAIM FORMS NEEDED TO TAKE ADVANTAGE OF REVISED PLAN OF ALLOCATION

The Plan of Allocation initially proposed for the Original Settlements excluded positions opened and closed the same day. Settlement Class Members were thus previously requested to exclude such positions from their claims. A change has been proposed that would, if approved, allow positions opened and closed the same day to be included in the calculations for each class member's *pro rata* share under the Plans of Allocation. Because information about such positions was not gathered previously, **if you have such positions and wish to take advantage of this potential change, you must file a revised claim form by [[MONTH DATE YEAR]].**

For the sake of clarity, Settlement Class Members can submit claims against the Settlement Fund created by the Original Settlements until [[MONTH DATE YEAR]] for all types of transactions, not just for their positions opened and closed the same day. Settlement Class Members can do so even if they did not previously file a claim form in connection with the Original Settlements. However, the Settlement Administrator retains discretion to reject claims by wholly new claimants, or to reject the new non-day-trade claims by existing claimants, if processing such new information would unduly delay distribution of the Original Settlement funds.

As stated in Part I Section D of the claim form, all Settlement Class Members need to indicate whether they are filing a claim form for the first time, or if they had previously filed a claim form and are seeking to revise or supplement their information. Settlement Class Members who previously filed must provide their claimant identification number. If you do not have or are unsure about your claimant identification number, please contact the Settlement Administrator. A revised or supplemental claim form will not be processed without one.

Settlement Class Members that had previously filed a claim form and are seeking to revise or supplement their information must still fill out the claim form in its entirety, even if the data was previously submitted. Where a Settlement Class Member had previously filed a claim form, the last-submitted one will be treated as completely replacing any prior versions.

As discussed in Sections III and V above, you may also object to this proposed change in the Plan of Allocation, for all three Settlements.

DO NOT CONTACT THE DISTRICT COURT OR THE CLERK'S OFFICE REGARDING THIS NOTICE.

Dated: [[Month day year]]

BY ORDER OF THE COURT.

Clerk of the United States District Court Southern District of New York

EXHIBIT 2

LEGAL NOTICE

If you sold any physical gold or financial or derivative instrument where gold is the underlying reference asset, or you bought gold put options in transactions conducted over-the-counter or in whole or in part on COMEX or on any other exchange in the United States between January 1, 2004 and June 30, 2013, you may be affected by two recent developments in class-action settlements.

First, there is now a new and additional proposed settlement (the “Third Settlement Agreement”) for \$50,000,000 reached with Barclays Bank PLC, The Bank of Nova Scotia, Société Générale, and The London Gold Market Fixing (the “Newly Settling Defendants”). Defendants deny any liability, fault, or wrongdoing of any kind in connection with the allegations in the Action. By entering into their respective settlements, Defendants have not admitted to any such liability, fault, or wrongdoing, and nothing in the three settlement agreements or this Notice shall be construed as such an admission.

Second, in connection with earlier settlements totaling \$102 million, class members were asked to exclude on their claim forms positions opened and closed the same day. You must submit a revised claim form to benefit from a proposed change that would instead allow such claims in part. You may also be heard to object to this proposed change, or the Plan of Allocation generally. Please see www.GoldFixSettlement.com for additional details. Revised claim forms are due by **[[month day year]]**.

The United States District Court for the Southern District of New York (the “Court”) authorized this Notice. The Court has appointed the lawyers listed below to represent the Settlement Class in this Action:

Merrill Davidoff Berger Montague PC 1818 Market Street, Suite 3600 Philadelphia, PA 19103	Daniel Brockett Quinn Emanuel Urquhart & Sullivan 51 Madison Avenue, 22nd Floor New York, NY 10010
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Who Is a Member of the Settlement Class?

The proposed Settlement Class includes:

All persons or entities who during the period from January 1, 2004 through June 30, 2013, either (A) sold any physical gold or financial or derivative instrument in which gold is the underlying reference asset, including, but not limited to, those who sold (i) gold bullion, gold bullion coins, gold bars, gold ingots or any form of physical gold, (ii) gold futures contracts in transactions conducted in whole or in part on COMEX or any other exchange operated in the United States, (iii) shares in gold exchange-traded funds (“ETFs”), (iv) gold call options in transactions conducted over-the-counter or in whole or in part on COMEX or any other exchange operated in the United States; (v) gold spot, gold forwards or gold swaps over-the-counter; or (B) bought gold put options in transactions conducted over-the-counter or in whole or in part on COMEX or on any other exchange operated in the United States.

The capitalized terms used in this Summary Notice if not defined herein are defined in the detailed Notice of a New and Additional Proposed Class Action Settlement (“Notice”) and the relevant settlement agreements, which are available at www.GoldFixSettlement.com. If you are not sure if you are included in the Settlement Class, you can get more information, including the detailed Notice, at www.GoldFixSettlement.com or by calling toll-free 1-844-271-4787 (if calling from outside the United States or Canada, call 1-267-238-9078).

What Is This Lawsuit About and What Does the New Settlement Provide?

This lawsuit alleges that the Defendants engaged in anticompetitive acts that affected the market for gold. Two prior settlements with other Defendants were given final approval by the Court. If the Third Settlement Agreement also receives final approval, there will be a total of \$152 million in recoveries, and the case will come to an end.

Will I Get a Payment?

If you are a member of a Settlement Class and do not opt out from that class, you will be eligible to file a Proof of Claim and Release (“Claim Form”). The amount of your payment will be determined by the Plans of Allocation. Details about the Plans of Allocation are available at www.GoldFixSettlement.com or by calling toll-free 1-844-271-4787 (if calling from outside the United States or Canada, call 1-267-238-9078). A date for distribution of the Settlement Funds has not been set. Claim Forms (new or revised) must be submitted by **[[MONTH DAY]]**, 2022. If you filed a claim in connection with the prior two settlements, that information will be treated as a claim in connection with the Third Settlement Agreement with no further action required on your part.

What Are My Rights?

If you are a member of the Settlement Class and do not opt out, you will release certain legal rights against the Newly Settling Defendants, as explained in the detailed Notice and Third Settlement Agreement, which are available at www.GoldFixSettlement.com. If you do not want to take part in the Third Settlement Agreement, you must opt out by **[[MONTH DAY YEAR]]**. You may object to the Third Settlement Agreement and/or application for an award of attorneys’ fees, payment of litigation costs and expenses, and/or service awards for Plaintiffs for the Third Settlement Agreement. You may also object to the Plans of Allocation. If you want to object, you must do so by **[[MONTH DAY YEAR]]**. Information on how to opt out or object is contained in the detailed Notice, which is available at www.GoldFixSettlement.com. Even if you filed an opt-out request in connection with the prior two settlements, you must do so in connection with the Third Settlement Agreement if you do not want to be bound by its terms.

When Is the Fairness Hearing?

The Court will hold a hearing at the United States District Court for the Southern District of New York, Thurgood Marshall United States Courthouse, 40 Foley Square, Courtroom 443, New York, NY 10007, on **[[MONTH DAY YEAR TIME]]** to consider whether to finally approve, among other things, the Third Settlement Agreement, Co-Lead Counsel’s application for an award of attorneys’ fees and expenses in connection with the Third Settlement Agreement, and the Plans of Allocation. Given the current COVID-19 situation, the Court reserves the right to conduct the final Fairness Hearing remotely. The Court currently expects to allow participants to attend using the following dial-in information: 1-888-363-4749, using the access code 3121171, and the security code 2548. You or your lawyer may ask to appear and speak at the hearing at your own expense, but you do not have to. Any changes to the time and place of the Fairness Hearing, or other deadlines, or the process for attending remotely, will be posted to www.GoldFixSettlement.com as soon as practicable.

For more information, call toll-free 1-844-271-4787 if calling from outside the United States or Canada, call 1-267-238-9078) or visit www.GoldFixSettlement.com.

******* Please do not call the Court or the Clerk of the Court for information about the Settlements. *******

EXHIBIT 3

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

IN RE:

COMMODITY EXCHANGE, INC., GOLD
FUTURES AND OPTIONS TRADING
LITIGATION

This Document Relates To All Actions

Case No. 14-MD-2548 (VEC)
14-MC-2548 (VEC)

Hon. Valerie E. Caproni

PLAN OF ALLOCATION FOR THE THIRD SETTLEMENT AGREEMENT

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DEFINED TERMS

For purposes of the Plan of Allocation, the following terms are defined as follows:

“Authorized Claimant” means any Class Member who will be entitled to a distribution from the Net Settlement Fund pursuant to the Third Settlement Agreement and Plan of Allocation for the Third Settlement Agreement approved by the Court.

“Claimant” means a Person who submits a Claim Form in connection with the Third Settlement Agreement. However, unless directed otherwise by that Class Member, a claim form previously submitted in connection with the two prior settlements will be treated as if also submitted in connection with the Third Settlement Agreement.

“Claim Deficiency Notice” means the notice sent by the Claims Administrator to a Claimant whose Claim Form is deficient in one or more ways such as, for example, failure to provide required information or documentation.

“Claim Form” means the proof of claim and release form provided to or requested by members of the Settlement Class for the Third Settlement Agreement.

“Claims Administrator” (also referred to as the “Settlement Administrator”) means Kroll Settlement Administration.

“Claims Bar Date” means the deadline established by the Court by which Class Members must submit Claim Forms to the Claims Administrator.

“Class Counsel” means Quinn Emanuel Urquhart & Sullivan, LLP, and Berger Montague PC.

“Class Member” means a Person who is a member of the Settlement Class and who has not timely and validly excluded himself, herself, or itself from the Third Settlement Agreement in accordance with the procedures approved by the Court.

“Class Plaintiffs” are Compañía Minera Dayton SCM, Frank Flanagan, Quitman D. Fulmer, KPFF Investment, Inc., Duane Lewis, Larry Dean Lewis, Kevin Maher, Robert Marechal, Blanche McKennon, Kelly McKennon, Thomas Moran, J. Scott Nicholson, Santiago Gold Fund LP, Steven Summer, and David Windmiller.

“Court” means the United States District Court for the Southern District of New York.

“Fix-Linked Transaction(s)” means a contract of any of the gold-related transaction types listed in the definition of Settlement Class, including in the appropriate direction (i.e., buy or sell), where the price is expressly linked to the London PM Gold Market Fixing. As provided by Part II of the Claim Form, Fix-Linked Transactions shall be separately listed, by year, in the Claim Form. No ETF-share related transactions shall qualify as “Fix-Linked Transactions.” Also as provided by Part II of the Claim Form, Fix-Linked Transactions shall not include positions that were opened and closed the same day. Also as provided by Part II of the Claim Form, Fix-Linked Transactions must have occurred within the United States.

“Gross Transaction Amount” means the amount, in United States dollars, of any of the gold-related transaction types listed in the definition of Settlement Class.

“Litigation Multiplier” means a factor that reflects the relative degree of risk that claims may have, due to a prior court ruling or otherwise. Each transaction is only assigned one Litigation Multiplier, as follows. The Litigation Multiplier for transactions arising out of shares in gold exchange-traded funds (“ETFs”) for the entire class period, and all other non-ETF-share claims arising out of transactions occurring after December 31, 2012, will be .25. The Litigation Multiplier for claims arising out of non-ETF-share transactions occurring from January 1, 2004, through December 31, 2009, will be 0.5. The Litigation Multiplier for non-ETF-share claims arising out of transactions occurring from January 1, 2010, to December 31, 2012, will be 1.0.

The Litigation Multiplier for positions opened and closed the same day (“Day-Trade Other Transactions”) will be .25.

“**Net Settlement Fund**” means the Settlement Fund created in connection with the Third Settlement Agreement, less payment of attorneys’ and expenses in connection with prosecuting the Action, costs and expenses reasonably and actually incurred in connection with providing class notice and the administration of the settlement, taxes and tax expenses, and any other Court-approved fees and expenses.

“**Newly Settling Defendants**” means Defendants Barclays Bank PLC, The Bank of Nova Scotia, Société Générale, and The London Gold Market Fixing Limited.

“**Other Transaction(s)**” means a contract of any of the gold-related transaction types listed in the definition of Settlement Class, including in the appropriate direction (i.e., buy or sell), that is not a Fix-Linked Transaction. As provided by Part II of the Claim Form, Other Transactions shall be separately listed, by year. As also provided by Part II of the claim form, although sales that relate to the sale of gold ETF shares are also defined as Other Transactions, they should be listed separately from all other qualifying Other Transactions. As also provided by Part II of the claim form, although transactions of other qualifying types that were opened and closed the same day are also defined as Other Transactions, they should be listed separately from all other qualifying Other Transactions. As also provided by Part II of the Claim Form, all Other Transactions must have occurred within the United States.

“**Person**” means an individual or entity, and his, her, or its spouses, heirs, predecessors, successors, representatives, or assignees.

“**Third Settlement Agreement**” means the Stipulation and Agreement of Settlement executed October 19, 2021, with the Newly Settling Defendants.

“Settlement Class” means all persons or entities who during the period from January 1, 2004 through June 30, 2013, either (A) sold any physical gold or financial or derivative instrument in which gold is the underlying reference asset, including, but not limited to, those who sold (i) gold bullion, gold bullion coins, gold bars, gold ingots or any form of physical gold, (ii) gold futures contracts in transactions conducted in whole or in part on COMEX or any other exchange operated in the United States, (iii) shares in gold ETFs,¹ (iv) gold call options in transactions conducted over-the-counter or in whole or in part on COMEX or any other exchange operated in the United States; (v) gold spot, gold forwards or gold swaps over-the-counter; or (B) bought gold put options in transactions conducted over-the-counter or in whole or in part on COMEX or on any other exchange operated in the United States.

“Settlement Class Period” means between January 1, 2004 and June 30, 2013, inclusive.

“Settlement Fund” means the \$50,000,000 in payments made pursuant to the Third Settlement Agreement by the Newly Settling Defendants and held in the escrow account established pursuant to the Third Settlement Agreement, including all monies held therein and interest earned thereon.

“Transaction Claim Amount” is equal to the Gross Transaction Amount for each year and transaction type (Fix-Linked Transactions, non-ETF-share Other Transactions, ETF-share

¹ Pursuant to Part II in the Claim Form, “GLD,” “IAU,” “SGOL,” PHYS,” “GTU,” and “PHAU” ETF transactions will be accepted for distribution purposes. Class Members may contact the Claims Administrator with other gold ETF share transactions they believe should qualify for claims. To qualify, generally the ETF should invest only in gold bullion and the performance of its shares should generally track the price of gold bullion, less the costs of its operations. For the sake of clarity, no ETF share transaction qualifies as a “Fix-Linked Transaction.”

Other Transactions, Day-Trade Other Transactions), multiplied by the applicable Litigation Multiplier.

Unless otherwise defined, all other capitalized terms have the same meaning as set forth in the Third Settlement Agreement.

I. THE NET SETTLEMENT FUND FOR DISTRIBUTION

Newly Settling Defendants have entered into the Third Settlement Agreement with Plaintiffs, which provides for a total payment of \$50,000,000 into the Settlement Fund for the Third Settlement Agreement. If the Third Settlement Agreement is approved, the Net Settlement Fund (the Settlement Fund less the fees and expenses of litigation and settlement administration, defined *supra*) will be distributed to all Authorized Claimants in accordance with the Plan of Allocation approved by the Court for use in connection with the Third Settlement Agreement. No funds will revert to the Newly Settling Defendants if the Court grants final approval to the Third Settlement Agreement.

II. ADMINISTRATIVE AND DISTRIBUTION PROCEDURES

The proceeds of the Net Settlement Fund will be paid to Authorized Claimants who submit valid Claim Forms by the Claims Bar Date. This section describes the administrative procedures that will apply to determine eligibility and the effect of Class Members submitting (or not submitting) Claim Forms. This section then discusses the procedures for distributing funds to Authorized Claimants.

A. Administrative Procedures

To be eligible to submit a Claim Form, a Claimant must be a member of the Settlement Class. For purposes of determining whether a Claimant is entitled to be treated as an Authorized Claimant, the following conditions apply:

1. Each Class Member wishing to receive proceeds from the Net Settlement Fund must submit a Claim Form, which, *inter alia*, releases all Released Claims against all Released Parties (as defined in the Third Settlement Agreement); is signed under penalty of perjury by an authorized Person; and is supported by such documents or proof as described by the Claimant in Part II of the Claim Form.

2. Any Class Member who does not submit a Claim Form by the Claims Bar Date will not be entitled to receive any of the proceeds from the Net Settlement Fund, but will otherwise be bound by the terms of the Third Settlement Agreement, including the terms of the final judgments and orders of dismissal to be entered in the Action and the releases provided for therein, and will be enjoined from, and, upon final approval of the Third Settlement Agreement, barred from bringing any action against any of the Released Parties concerning the Released Claims. However, unless directed otherwise by that Class Member, a claim form previously submitted in connection with the two prior settlements will be treated as if also submitted in connection with the Third Settlement Agreement. Class Counsel shall have the discretion, but not the obligation, to accept late-submitted claims for processing by the Claims Administrator, so long as the distribution of the Net Settlement Fund to Authorized Claimants is not materially delayed.

3. Each Claim Form must be submitted to and reviewed by the Claims Administrator, who will determine: (a) whether the Claimant is an eligible class member, (b) whether the Claim Form is in accordance with the Third Settlement Agreement and any applicable orders of the Court, and (c) the extent, if any, to which each claim will be allowed, subject to review by the Court.

4. Claim Forms that do not meet the submission requirements may be rejected. Prior to rejection of a Claim Form, the Claims Administrator will provide the Claimant with a Claim Deficiency Notice. The Claim Deficiency Notice will, in a timely fashion and in writing, notify all Claimants whose Claim Forms the Claims Administrator proposes to reject, in whole or in part, and set out the reason(s) therefore, and the Claimant will have an opportunity to respond and/or cure the deficiency.

5. If a dispute concerning a Claimant's claim cannot be resolved, Class Counsel will thereafter present such disputes to the Court in Class Plaintiffs' motion for a distribution order.

B. Claimant's Submission of Documents or Data

Pursuant to Part II of the Claim Form, Claimants will be required to provide the annual Gross Transaction Amount separately for Fix-Linked Transactions, non-ETF-share related Other Transactions, ETF-share related Other Transactions, and Day-Trade Other Transactions as part of the Claim Form. If a Settlement Class Member is unable or unwilling to separate its Day-Trade Other Transactions from its positions held overnight, it may submit all such otherwise qualifying amounts as Day-Trade Other Transactions.

Also pursuant to Part II of the Claim Form, Claimants will have to describe the supporting documents and/or data used by the Claimant to calculate each Gross Transaction Amount. The supporting documents shall not be submitted with the Claim Form, but must be available for inspection upon request. A failure to provide sufficient support upon request is, pursuant to Part III, paragraph 8 of the Claim Form, grounds for rejecting or reducing the claim.

C. Claims Procedures and Timing

On receipt and processing of a Claimant's Claim Form (and, if requested, its data and records), the Claims Administrator will: determine if a Claim Deficiency Notice is required for

any transaction; and calculate the Claimant's Transaction Claim Amount, as described in Part III, *infra*.

Following receipt of a Claimant's Claim Form (and, if requested, its data and records), the Claims Administrator will issue a "Confirmation of Claim Receipt" to the Claimant via an automated email response if the Claim Form was submitted on the Settlement Website.

III. CALCULATION OF TRANSACTION CLAIM AMOUNTS

As provided for in Part II of the Claim Form, each Claimant will submit its total Gross Transaction Amount separately, by year, for the Claimant's Fix-Linked Transactions, the Claimant's non-ETF-share Other Transactions, the Claimant's ETF-share Other Transactions, and the Claimant's Day-Trade Other Transactions. The Transaction Claim Amount for each transaction type is the Gross Transaction Amount multiplied by the applicable Litigation Multiplier for that year and product type.

IV. CALCULATING *PRO RATA* ADJUSTMENTS FOR DISTRIBUTION

A. Pro Rata Distribution

After each Authorized Claimant's Transaction Claim Amounts are determined as described in § III, *supra*, and the Court approves the distribution order and all claim disputes are resolved, the Claims Administrator calculates each Authorized Claimant's share of the Net Settlement Fund as follows:

The Net Settlement Fund will be distributed *pro rata* based on the total qualifying Transaction Claim Amounts, regardless of whether the claims arise from Fix-Linked Transactions or from Other Transactions, *provided, however*, that:

If the aforementioned *pro rata* distribution would result in less than 20% of the Net Settlement Fund being distributed in relation to Fix-Linked Transactions, then the following process will be used instead: In this event, 20% of the Net Settlement Fund would be distributed

pro rata by Transaction Claim Amounts associated only with Fix-Linked Transactions as compared to other Fix-Linked Transactions, while 80% of the Net Settlement Fund would be distributed *pro rata* by Transaction Claim Amounts associated only with Other Transactions as compared to Other Transactions. In this event, no Claimant's total distribution associated with Fix-Linked Transactions shall be greater than the Claimant's total Gross Transactions Amounts associated with Fix-Linked Transactions; the excess distribution to such a Claimant would be provided *pro rata* as part of the distribution of the 80% associated with Other Transactions.

B. Alternative Minimum Payment

Where it is reasonably determined that the cost of administering a claim would exceed the value of the claim under the Plan of Allocation, Class Counsel will direct the Claims Administrator to preserve the value of the Settlement Fund and make an alternative minimum payment to satisfy such claims. The alternative minimum payment will be a set amount for all such Authorized Claimants and will be based on the participation rate of the class in the settlement.

C. Distribution

Following the Effective Date and the Claims Administrator calculations of each Authorized Claimant's *pro rata* share of the Net Settlement Fund or alternative minimum payment amount, the Claims Administrator shall distribute the Net Settlement Fund to Authorized Claimants pursuant to this Plan of Allocation, as approved by the Court.

D. Remaining Balance in the Net Settlement Fund

If there is any balance remaining in the Net Settlement Fund after a reasonable period of time after the initial date of distribution of the Net Settlement Fund, the Claims Administrator shall, if feasible, allocate such balance among Authorized Claimants in an equitable and

economic fashion. These redistributions shall be repeated until the remaining balance in the Net Settlement Fund is *de minimis*, and any such remaining balance shall be donated to an appropriate 501(c)(3) non-profit organization selected by Class Counsel and approved by the Court.

EXHIBIT 4

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

IN RE:

COMMODITY EXCHANGE, INC., GOLD
FUTURES AND OPTIONS TRADING
LITIGATION

This Document Relates To All Actions

Case No. 14-MD-2548 (VEC)
14-MC-2548 (VEC)

Hon. Valerie E. Caproni

**UPDATED PLAN OF ALLOCATION FOR DEUTSCHE BANK AND HSBC
SETTLEMENTS**

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DEFINED TERMS

For purposes of the Plan of Allocation, the following terms are defined as follows:

“Authorized Claimant” means any Class Member who will be entitled to a distribution from the Net Settlement Fund pursuant to the Settlement Agreements and Plan of Allocation approved by the Court.

“Claimant” means a Person who submits a Claim Form.

“Claim Deficiency Notice” means the notice sent by the Claims Administrator to a Claimant whose Claim Form is deficient in one or more ways such as, for example, failure to provide required information or documentation.

“Claim Form” means the proof of claim and release form provided to or requested by members of the Settlement Class.

“Claims Administrator” (also referred to as the “Settlement Administrator”) means Kroll Settlement Administration.

“Claims Bar Date” means the deadline established by the Court by which Class Members must submit Claim Forms to the Claims Administrator.

“Class Counsel” means Quinn Emanuel Urquhart & Sullivan, LLP, and Berger Montague PC.

“Class Member” means a Person who is a member of the Settlement Class and who has not timely and validly excluded himself, herself, or itself in accordance with the procedures approved by the Court.

“Class Plaintiffs” are Michel de Chabert-Ostland, Compañía Minera Dayton SCM, Edward R. Derksen, Frank Flanagan, KPFF Investment, Inc., Duane Lewis, Larry Dean Lewis, Kevin Maher, Robert Marechal, Blanche McKennon, Kelly McKennon, Thomas Moran, J. Scott Nicholson, Richard White, and David Windmiller.

“Court” means the United States District Court for the Southern District of New York.

“Fix-Linked Transaction(s)” means a contract of any of the gold-related transaction types listed in the definition of Settlement Class, including in the appropriate direction (i.e., buy or sell), where the price is expressly linked to the London PM Gold Market Fixing. As provided by Part II of the Claim Form, Fix-Linked Transactions shall be separately listed, by year, in the Claim Form. No ETF-share related transactions shall qualify as “Fix-Linked Transactions.” Also as provided by Part II of the Claim Form, Fix-Linked Transactions shall not include positions that were opened and closed the same day. Also as provided by Part II of the Claim Form, Fix-Linked Transactions must have occurred within the United States.

“Gross Transaction Amount” means the amount, in United States dollars, of any of the gold-related transaction types listed in the definition of Settlement Class.

“Litigation Multiplier” means a factor that reflects the relative degree of risk that claims may have, due to a prior court ruling or otherwise. Each transaction is only assigned one Litigation Multiplier, as follows. The Litigation Multiplier for transactions arising out of shares in gold exchange-traded funds (“ETFs”) for the entire class period, and all other non-ETF-share claims arising out of transactions occurring after December 31, 2012, will be .25. The Litigation Multiplier for claims arising out of non-ETF-share transactions occurring from January 1, 2004, through December 31, 2009, will be 0.5. The Litigation Multiplier for non-ETF-share claims arising out of transactions occurring from January 1, 2010, to December 31, 2012, will be 1.0. The Litigation Multiplier for positions opened and closed the same day (“Day-Trade Other Transactions”) will be .25.

“Net Settlement Fund” means the Settlement Fund less payment of attorneys’ and expenses in connection with prosecuting the Action, costs and expenses reasonably and actually

incurred in connection with providing class notice and the administration of the settlement, taxes and tax expenses, and any other Court-approved fees and expenses.

“Other Transaction(s)” means a contract of any of the gold-related transaction types listed in the definition of Settlement Class, including in the appropriate direction (i.e., buy or sell), that is not a Fix-Linked Transaction. As provided by Part II of the Claim Form, Other Transactions shall be separately listed, by year. As also provided by Part II of the claim form, although sales that relate to the sale of gold ETF shares are also defined as Other Transactions, they should be listed separately from all other qualifying Other Transactions. As also provided by Part II of the claim form, although transactions of other qualifying types that were opened and closed the same day are also defined as Other Transactions, they should be listed separately from all other qualifying Other Transactions. As also provided by Part II of the Claim Form, all Other Transactions must have occurred within the United States.

“Person” means an individual or entity, and his, her, or its spouses, heirs, predecessors, successors, representatives, or assignees.

“Settlement Agreements” means the Stipulation and Agreement of Settlement with Deutsche Bank AG, executed August 24, 2016 (ECF No. 174-1); and the Stipulation and Agreement of Settlement with HSBC Bank plc, executed November 10, 2020.

“Settlement Class” means all persons or entities who during the period from January 1, 2004 through June 30, 2013, either (A) sold any physical gold or financial or derivative instrument in which gold is the underlying reference asset, including, but not limited to, those who sold (i) gold bullion, gold bullion coins, gold bars, gold ingots or any form of physical gold, (ii) gold futures contracts in transactions conducted in whole or in part on COMEX or any other

exchange operated in the United States, (iii) shares in gold ETFs,¹ (iv) gold call options in transactions conducted over-the-counter or in whole or in part on COMEX or any other exchange operated in the United States; (v) gold spot, gold forwards or gold swaps over-the-counter; or (B) bought gold put options in transactions conducted over-the-counter or in whole or in part on COMEX or on any other exchange operated in the United States.

“Settlement Class Period” means between January 1, 2004 and June 30, 2013, inclusive.

“Settlement Fund” means the \$102,000,000 in payments made pursuant to the Settlement Agreements by the Settling Defendants and held in the escrow account established pursuant to the Settlement Agreements, including all monies held therein and interest earned thereon.

“Settling Defendants” means Deutsche Bank AG and HSBC Bank plc.

“Transaction Claim Amount” is equal to the Gross Transaction Amount for each year and transaction type (Fix-Linked Transactions, non-ETF-share Other Transactions, ETF-share Other Transactions, Day-Trade Other Transactions), multiplied by the applicable Litigation Multiplier.

Unless otherwise defined, all other capitalized terms have the same meaning as set forth in the Settlement Agreement.

¹ Pursuant to Part II in the Claim Form, “GLD,” “IAU,” “SGOL,” “PHYS,” “GTU,” and “PHAU” ETF transactions will be accepted for distribution purposes. Class Members may contact the Claims Administrator with other gold ETF share transactions they believe should qualify for claims. To qualify, generally the ETF should invest only in gold bullion and the performance of its shares should generally track the price of gold bullion, less the costs of its operations. For the sake of clarity, no ETF share transaction qualifies as a “Fix-Linked Transaction.”

I. THE NET SETTLEMENT FUND FOR DISTRIBUTION

Settling Defendants have entered into Settlement Agreements with Plaintiffs that provide for total payments of \$102,000,000 into the Settlement Fund. If the Settlement Agreements are approved, the Net Settlement Fund (the Settlement Fund less the fees and expenses of litigation and settlement administration, defined *supra*) will be distributed to all Authorized Claimants in accordance with the Plan of Allocation approved by the Court. No funds will revert to the Settling Defendants if the Court grants final approval to the Settlement Agreement.

II. ADMINISTRATIVE AND DISTRIBUTION PROCEDURES

The proceeds of the Net Settlement Fund will be paid to Authorized Claimants who submit valid Claim Forms by the Claims Bar Date. This section describes the administrative procedures that will apply to determine eligibility and the effect of Class Members submitting (or not submitting) Claim Forms. This section then discusses the procedures for distributing funds to Authorized Claimants.

A. Administrative Procedures

To be eligible to submit a Claim Form, a Claimant must be a member of the Settlement Class. For purposes of determining whether a Claimant is entitled to be treated as an Authorized Claimant, the following conditions apply:

1. Each Class Member wishing to receive proceeds from the Net Settlement Fund must submit a Claim Form, which, *inter alia*, releases all Released Claims against all Released Parties (as defined in the Settlement Agreement); is signed under penalty of perjury by an authorized Person; and is supported by such documents or proof as described by the Claimant in Part II of the Claim Form.

2. Any Class Member who does not submit a Claim Form by the Claims Bar Date will not be entitled to receive any of the proceeds from the Net Settlement Fund, but will

otherwise be bound by the terms of the Settlement Agreement, including the terms of the final judgments and orders of dismissal to be entered in the Action and the releases provided for therein, and will be enjoined from, and, upon final approval of the Settlement Agreement, barred from bringing any action against any of the Released Parties concerning the Released Claims. Lead Counsel shall have the discretion, but not the obligation, to accept late-submitted claims for processing by the Claims Administrator, so long as the distribution of the Net Settlement Fund to Authorized Claimants is not materially delayed.

3. Each Claim Form must be submitted to and reviewed by the Claims Administrator, who will determine: (a) whether the Claimant is an eligible class member, (b) whether the Claim Form is in accordance with the Settlement Agreements and any applicable orders of the Court, and (c) the extent, if any, to which each claim will be allowed, subject to review by the Court.

4. Claim Forms that do not meet the submission requirements may be rejected. Prior to rejection of a Claim Form, the Claims Administrator will provide the Claimant with a Claim Deficiency Notice. The Claim Deficiency Notice will, in a timely fashion and in writing, notify all Claimants whose Claim Forms the Claims Administrator proposes to reject, in whole or in part, and set out the reason(s) therefore, and the Claimant will have an opportunity to respond and/or cure the deficiency.

5. If a dispute concerning a Claimant's claim cannot be resolved, Class Counsel will thereafter present such disputes to the Court in Class Plaintiffs' motion for a distribution order.

B. Claimant's Submission of Documents or Data

Pursuant to Part II of the Claim Form, Claimants will be required to provide the annual Gross Transaction Amount separately for Fix-Linked Transactions, non-ETF-share related Other Transactions, ETF-share related Other Transactions, and Day-Trade Other Transactions as part

of the Claim Form. If a Settlement Class Member is unable or unwilling to separate its Day-Trade Other Transactions from its positions held overnight, it may submit all such otherwise qualifying amounts as Day-Trade Other Transactions.

Also pursuant to Part II of the Claim Form, Claimants will have to describe the supporting documents and/or data used by the Claimant to calculate each Gross Transaction Amount. The supporting documents shall not be submitted with the Claim Form, but must be available for inspection upon request. A failure to provide sufficient support upon request is, pursuant to Part III, paragraph 8 of the Claim Form, grounds for rejecting or reducing the claim.

C. Claims Procedures and Timing

On receipt and processing of a Claimant's Claim Form (and, if requested, its data and records), the Claims Administrator will: determine if a Claim Deficiency Notice is required for any transaction; and calculate the Claimant's Transaction Claim Amount, as described in Part III, *infra*.

Following receipt of a Claimant's Claim Form (and, if requested, its data and records), the Claims Administrator will issue a "Confirmation of Claim Receipt" to the Claimant via an automated email response if the Claim Form was submitted on the Settlement Website.

III. CALCULATION OF TRANSACTION CLAIM AMOUNTS

As provided for in Part II of the Claim Form, each Claimant will submit its total Gross Transaction Amount separately, by year, for the Claimant's Fix-Linked Transactions, the Claimant's non-ETF-share Other Transactions, the Claimant's ETF-share Other Transactions, and the Claimant's Day-Trade Other Transactions.

The Transaction Claim Amount for each transaction type is the Gross Transaction Amount multiplied by the applicable Litigation Multiplier for that year and product type.

IV. CALCULATING *PRO RATA* ADJUSTMENTS FOR DISTRIBUTION

A. Pro Rata Distribution

After each Authorized Claimant's Transaction Claim Amounts are determined as described in § III, *supra*, and the Court approves the distribution order and all claim disputes are resolved, the Claims Administrator calculates each Authorized Claimant's share of the Net Settlement Fund as follows:

The Net Settlement Fund will be distributed *pro rata* based on the total qualifying Transaction Claim Amounts, regardless of whether the claims arise from Fix-Linked Transactions or from Other Transactions, *provided, however*, that:

If the aforementioned *pro rata* distribution would result in less than 20% of the Net Settlement Fund being distributed in relation to Fix-Linked Transactions, then the following process will be used instead: In this event, 20% of the Net Settlement Fund would be distributed *pro rata* by Transaction Claim Amounts associated only with Fix-Linked Transactions as compared to other Fix-Linked Transactions, while 80% of the Net Settlement Fund would be distributed *pro rata* by Transaction Claim Amounts associated only with Other Transactions as compared to Other Transactions. In this event, no Claimant's total distribution associated with Fix-Linked Transactions shall be greater than the Claimant's total Gross Transactions Amounts associated with Fix-Linked Transactions; the excess distribution to such a Claimant would be provided *pro rata* as part of the distribution of the 80% associated with Other Transactions.

B. Alternative Minimum Payment

Where it is reasonably determined that the cost of administering a claim would exceed the value of the claim under the Plan of Allocation, Class Counsel will direct the Claims Administrator to preserve the value of the Settlement Fund and make an alternative minimum

payment to satisfy such claims. The alternative minimum payment will be a set amount for all such Authorized Claimants and will be based on the participation rate of the class in the settlement.

C. Distribution

Following the Effective Date and the Claims Administrator calculations of each Authorized Claimant's *pro rata* share of the Net Settlement Fund or alternative minimum payment amount, the Claims Administrator shall distribute the Net Settlement Fund to Authorized Claimants pursuant to this Plan of Allocation, as approved by the Court.

D. Remaining Balance in the Net Settlement Fund

If there is any balance remaining in the Net Settlement Fund after a reasonable period of time after the initial date of distribution of the Net Settlement Fund, the Claims Administrator shall, if feasible, allocate such balance among Authorized Claimants in an equitable and economic fashion. These redistributions shall be repeated until the remaining balance in the Net Settlement Fund is *de minimis*, and any such remaining balance shall be donated to an appropriate 501(c)(3) non-profit organization selected by Lead Counsel and approved by the Court.

EXHIBIT 5

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

IN RE:

COMMODITY EXCHANGE, INC., GOLD
FUTURES AND OPTIONS TRADING
LITIGATION

This Document Relates To All Actions

Case No. 14-MD-2548 (VEC)
14-MC-2548 (VEC)

Hon. Valerie E. Caproni

**UPDATED PLAN OF ALLOCATION FOR DEUTSCHE BANK AND HSBC
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DEFINED TERMS

For purposes of the Plan of Allocation, the following terms are defined as follows:

“Authorized Claimant” means any Class Member who will be entitled to a distribution from the Net Settlement Fund pursuant to the Settlement Agreements and Plan of Allocation approved by the Court.

“Claimant” means a Person who submits a Claim Form.

“Claim Deficiency Notice” means the notice sent by the Claims Administrator to a Claimant whose Claim Form is deficient in one or more ways such as, for example, failure to provide required information or documentation.

“Claim Form” means the proof of claim and release form provided to or requested by members of the Settlement Class.

“Claims Administrator” ~~means Heffler Claims Group~~ (also referred to as the Settlement Administrator) means Kroll Settlement Administration.

“Claims Bar Date” means the deadline established by the Court by which Class Members must submit Claim Forms to the Claims Administrator.

“Class Counsel” means Quinn Emanuel Urquhart & Sullivan, LLP, and Berger Montague PC.

“Class Member” means a Person who is a member of the Settlement Class and who has not timely and validly excluded himself, herself, or itself in accordance with the procedures approved by the Court.

“Class Plaintiffs” are Michel de Chabert-Ostland, Compañía Minera Dayton SCM, Edward R. Derksen, Frank Flanagan, KPFF Investment, Inc., Duane Lewis, Larry Dean Lewis, Kevin Maher, Robert Marechal, Blanche McKennon, Kelly McKennon, Thomas Moran, J. Scott Nicholson, Richard White, and David Windmiller.

“Court” means the United States District Court for the Southern District of New York.

“Fix-Linked Transaction(s)” means a contract of any of the gold-related transaction types listed in the definition of Settlement Class, including in the appropriate direction (i.e., buy or sell), where the price is expressly linked to the London PM Gold Market Fixing. As provided by Part II of the Claim Form, Fix-Linked Transactions shall be separately listed, by year, in the Claim Form. No ETF-share related transactions shall qualify as “Fix-Linked Transactions.” Also as provided by Part II of the Claim Form, Fix-Linked Transactions shall not include positions that were opened and closed the same day. Also as provided by Part II of the Claim Form, Fix-Linked Transactions must have occurred within the United States.

“Gross Transaction Amount” means the amount, in United States dollars, of any of the gold-related transaction types listed in the definition of Settlement Class.

“Litigation Multiplier” means a factor that reflects the relative degree of risk that claims may have, due to a prior court ruling or otherwise. Each transaction is only assigned one Litigation Multiplier, as follows. The Litigation Multiplier for transactions arising out of shares in gold exchange-traded funds (“ETFs”) for the entire class period, and all other non-ETF-share claims arising out of transactions occurring after December 31, 2012, will be .25. The Litigation Multiplier for claims arising out of non-ETF-share transactions occurring from January 1, 2004, through December 31, 2009, will be 0.5. The Litigation Multiplier for non-ETF-share claims arising out of transactions occurring from January 1, 2010, to December 31, 2012, will be 1.0. [The Litigation Multiplier for positions opened and closed the same day \(“Day-Trade Other Transactions”\) will be .25.](#)

“Net Settlement Fund” means the Settlement Fund less payment of attorneys’ and expenses in connection with prosecuting the Action, costs and expenses reasonably and actually

incurred in connection with providing class notice and the administration of the settlement, taxes and tax expenses, and any other Court-approved fees and expenses.

“Other Transaction(s)” means a contract of any of the gold-related transaction types listed in the definition of Settlement Class, including in the appropriate direction (i.e., buy or sell), that is not a Fix-Linked Transaction. As provided by Part II of the Claim Form, Other Transactions shall be separately listed, by year. As also provided by Part II of the claim form, although sales that relate to the sale of gold ETF shares are also defined as Other Transactions, they should be listed separately from all other qualifying Other Transactions. As also provided by Part II of the ~~Claim Form, Other Transactions shall not include positions~~ claim form, although transactions of other qualifying types that were opened and closed the same day are also defined as Other Transactions, they should be listed separately from all other qualifying Other Transactions. As also provided by Part II of the Claim Form, all Other Transactions must have occurred within the United States.

“Person” means an individual or entity, and his, her, or its spouses, heirs, predecessors, successors, representatives, or assignees.

“Settlement Agreements” means the Stipulation and Agreement of Settlement with Deutsche Bank AG, executed August 24, 2016 (ECF No. 174-1); and the Stipulation and Agreement of Settlement with HSBC Bank plc, executed November 10, 2020.

“Settlement Class” means all persons or entities who during the period from January 1, 2004 through June 30, 2013, either (A) sold any physical gold or financial or derivative instrument in which gold is the underlying reference asset, including, but not limited to, those who sold (i) gold bullion, gold bullion coins, gold bars, gold ingots or any form of physical gold, (ii) gold futures contracts in transactions conducted in whole or in part on COMEX or any other

exchange operated in the United States, (iii) shares in gold ETFs,¹ (iv) gold call options in transactions conducted over-the-counter or in whole or in part on COMEX or any other exchange operated in the United States; (v) gold spot, gold forwards or gold swaps over-the-counter; or (B) bought gold put options in transactions conducted over-the-counter or in whole or in part on COMEX or on any other exchange operated in the United States.

“Settlement Class Period” means between January 1, 2004 and June 30, 2013, inclusive.

“Settlement Fund” means the \$102,000,000 in payments made pursuant to the Settlement Agreements by the Settling Defendants and held in the escrow account established pursuant to the Settlement Agreements, including all monies held therein and interest earned thereon.

“Settling Defendants” means Deutsche Bank AG and HSBC Bank plc.

“Transaction Claim Amount” is equal to the Gross Transaction Amount for each year and transaction type (Fix-Linked Transactions, non-ETF-share Other Transactions, ~~and~~ETF-share Other Transactions, Day-Trade Other Transactions), multiplied by the applicable Litigation Multiplier.

Unless otherwise defined, all other capitalized terms have the same meaning as set forth in the Settlement Agreement.

¹ Pursuant to Part II in the Claim Form, “GLD,” “IAU,” “SGOL,” “PHYS,” “GTU,” and “IAUPHAU” ETF transactions will be accepted for distribution purposes. Class Members may contact the Claims Administrator with other gold ETF share transactions they believe should qualify for claims. To qualify, generally the ETF should invest only in gold bullion and the performance of its shares should generally track the price of gold bullion, less the costs of its operations. For the sake of clarity, no ETF share transaction qualifies as a “Fix-Linked Transaction.”

I. THE NET SETTLEMENT FUND FOR DISTRIBUTION

Settling Defendants have entered into Settlement Agreements with Plaintiffs that provide for total payments of \$102,000,000 into the Settlement Fund. If the Settlement Agreements are approved, the Net Settlement Fund (the Settlement Fund less the fees and expenses of litigation and settlement administration, defined *supra*) will be distributed to all Authorized Claimants in accordance with the Plan of Allocation approved by the Court. No funds will revert to the Settling Defendants if the Court grants final approval to the Settlement Agreement.

II. ADMINISTRATIVE AND DISTRIBUTION PROCEDURES

The proceeds of the Net Settlement Fund will be paid to Authorized Claimants who submit valid Claim Forms by the Claims Bar Date. This section describes the administrative procedures that will apply to determine eligibility and the effect of Class Members submitting (or not submitting) Claim Forms. This section then discusses the procedures for distributing funds to Authorized Claimants.

A. Administrative Procedures

To be eligible to submit a Claim Form, a Claimant must be a member of the Settlement Class. For purposes of determining whether a Claimant is entitled to be treated as an Authorized Claimant, the following conditions apply:

1. Each Class Member wishing to receive proceeds from the Net Settlement Fund must submit a Claim Form, which, *inter alia*, releases all Released Claims against all Released Parties (as defined in the Settlement Agreement); is signed under penalty of perjury by an authorized Person; and is supported by such documents or proof as described by the Claimant in Part II of the Claim Form.

2. Any Class Member who does not submit a Claim Form by the Claims Bar Date will not be entitled to receive any of the proceeds from the Net Settlement Fund, but will

otherwise be bound by the terms of the Settlement Agreement, including the terms of the final judgments and orders of dismissal to be entered in the Action and the releases provided for therein, and will be enjoined from, and, upon final approval of the Settlement Agreement, barred from bringing any action against any of the Released Parties concerning the Released Claims. Lead Counsel shall have the discretion, but not the obligation, to accept late-submitted claims for processing by the Claims Administrator, so long as the distribution of the Net Settlement Fund to Authorized Claimants is not materially delayed.

3. Each Claim Form must be submitted to and reviewed by the Claims Administrator, who will determine: (a) whether the Claimant is an eligible class member, (b) whether the Claim Form is in accordance with the Settlement Agreements and any applicable orders of the Court, and (c) the extent, if any, to which each claim will be allowed, subject to review by the Court.

4. Claim Forms that do not meet the submission requirements may be rejected. Prior to rejection of a Claim Form, the Claims Administrator will provide the Claimant with a Claim Deficiency Notice. The Claim Deficiency Notice will, in a timely fashion and in writing, notify all Claimants whose Claim Forms the Claims Administrator proposes to reject, in whole or in part, and set out the reason(s) therefore, and the Claimant will have an opportunity to respond and/or cure the deficiency.

5. If a dispute concerning a Claimant's claim cannot be resolved, Class Counsel will thereafter present such disputes to the Court in Class Plaintiffs' motion for a distribution order.

B. Claimant's Submission of Documents or Data

Pursuant to Part II of the Claim Form, Claimants will be required to provide the annual Gross Transaction Amount separately for Fix-Linked Transactions, non-ETF-share related Other Transactions, ETF-share related Other Transactions, and ~~ETF-share related~~ Day-Trade Other

Transactions as part of the Claim Form. [If a Settlement Class Member is unable or unwilling to separate its Day-Trade Other Transactions from its positions held overnight, it may submit all such otherwise qualifying amounts as Day-Trade Other Transactions.](#)

Also pursuant to Part II of the Claim Form, Claimants will have to describe the supporting documents and/or data used by the Claimant to calculate each Gross Transaction Amount. The supporting documents shall not be submitted with the Claim Form, but must be available for inspection upon request. A failure to provide sufficient support upon request is, pursuant to Part III, paragraph 8 of the Claim Form, grounds for rejecting or reducing the claim.

C. Claims Procedures and Timing

On receipt and processing of a Claimant's Claim Form (and, if requested, its data and records), the Claims Administrator will: determine if a Claim Deficiency Notice is required for any transaction; and calculate the Claimant's Transaction Claim Amount, as described in Part III, *infra*.

Following receipt of a Claimant's Claim Form (and, if requested, its data and records), the Claims Administrator will issue a "Confirmation of Claim Receipt" to the Claimant via an automated email response if the Claim Form was submitted on the Settlement Website.

III. CALCULATION OF TRANSACTION CLAIM AMOUNTS

As provided for in Part II of the Claim Form, each Claimant will submit its total Gross Transaction Amount separately, by year, for the Claimant's Fix-Linked Transactions, the Claimant's non-ETF-share Other Transactions, [the Claimant's ETF-share Other Transactions,](#) and the Claimant's ~~ETF-share~~ [Day-Trade](#) Other Transactions.

The Transaction Claim Amount for each transaction type is the Gross Transaction Amount multiplied by the applicable Litigation Multiplier for that year and product type.

IV. CALCULATING *PRO RATA* ADJUSTMENTS FOR DISTRIBUTION

A. Pro Rata Distribution

After each Authorized Claimant's Transaction Claim Amounts are determined as described in § III, *supra*, and the Court approves the distribution order and all claim disputes are resolved, the Claims Administrator calculates each Authorized Claimant's share of the Net Settlement Fund as follows:

The Net Settlement Fund will be distributed *pro rata* based on the total qualifying Transaction Claim Amounts, regardless of whether the claims arise from Fix-Linked Transactions or from Other Transactions, *provided, however*, that:

If the aforementioned *pro rata* distribution would result in less than 20% of the Net Settlement Fund being distributed in relation to Fix-Linked Transactions, then the following process will be used instead: In this event, 20% of the Net Settlement Fund would be distributed *pro rata* by Transaction Claim Amounts associated only with Fix-Linked Transactions as compared to other Fix-Linked Transactions, while 80% of the Net Settlement Fund would be distributed *pro rata* by Transaction Claim Amounts associated only with Other Transactions as compared to Other Transactions. In this event, no Claimant's total distribution associated with Fix-Linked Transactions shall be greater than the Claimant's total Gross Transactions Amounts associated with Fix-Linked Transactions; the excess distribution to such a Claimant would be provided *pro rata* as part of the distribution of the 80% associated with Other Transactions.

B. Alternative Minimum Payment

Where it is reasonably determined that the cost of administering a claim would exceed the value of the claim under the Plan of Allocation, Class Counsel will direct the Claims Administrator to preserve the value of the Settlement Fund and make an alternative minimum

payment to satisfy such claims. The alternative minimum payment will be a set amount for all such Authorized Claimants and will be based on the participation rate of the class in the settlement.

C. Distribution

Following the Effective Date and the Claims Administrator calculations of each Authorized Claimant's *pro rata* share of the Net Settlement Fund or alternative minimum payment amount, the Claims Administrator shall distribute the Net Settlement Fund to Authorized Claimants pursuant to this Plan of Allocation, as approved by the Court.

D. Remaining Balance in the Net Settlement Fund

If there is any balance remaining in the Net Settlement Fund after a reasonable period of time after the initial date of distribution of the Net Settlement Fund, the Claims Administrator shall, if feasible, allocate such balance among Authorized Claimants in an equitable and economic fashion. These redistributions shall be repeated until the remaining balance in the Net Settlement Fund is *de minimis*, and any such remaining balance shall be donated to an appropriate 501(c)(3) non-profit organization selected by Lead Counsel and approved by the Court.

EXHIBIT 6

**In re Commodity Exchange, Inc., Gold Futures and Options Trading
Litigation**

UNITED STATES DISTRICT COURT – SOUTHERN DISTRICT OF NEW YORK
Civil Action No.: 14-MD-2548-VEC

**INSTRUCTIONS FOR COMPLETING THE REVISED PROOF OF CLAIM AND
RELEASE FORM**

1. If between January 1, 2004 and June 30, 2013 you either: (A) sold any physical gold or financial or derivative instrument in which gold is the underlying reference asset, including, but not limited to, selling (i) gold bullion, gold bullion coins, gold bars, gold ingots or any form of physical gold, (ii) gold futures contracts in transactions conducted in whole or in part on COMEX or any other exchange operated in the United States, (iii) shares in gold exchange-traded funds (“ETFs”), (iv) gold call options in transactions conducted over-the-counter or in whole or in part on COMEX or any other exchange operated in the United States; (v) gold spot, gold forwards or gold swaps over-the-counter; or (B) bought gold put options in transactions conducted over-the-counter or in whole or in part on COMEX or on any other exchange operated in the United States, you may be eligible to receive a payment from settlements reached in this Action.
2. To recover as a Class Member based on your claims in this Action you must complete and sign this Proof of Claim and Release form. If you fail to submit a properly completed and addressed Proof of Claim and Release form, your claim may be rejected and you may be precluded from any recovery from the Net Settlement Fund created in connection with the settlements. ***However, unless directed otherwise by that Class Member, a claim form previously submitted in connection with the two prior settlements will be treated as if also submitted in connection with the Third Settlement Agreement.*** Thus, if you already have submitted a claim, and do not wish to submit new “day-trade” data, you do not need to do anything to potentially benefit from the Third Settlement Agreement. If you have questions on whether you already submitted a claim, please contact the Settlement Administrator.
3. Capitalized terms not defined in this Proof of Claim and Release form have the same meaning as defined in the Notices for the Settlement Agreements posted on the Settlement Website in connection with the settlement agreements, www.GoldFixSettlement.com. It is important that you read the Notices. By signing and submitting a Proof of Claim and Release Form, you will be certifying that you have read the Notices, including the terms of the releases described in the Notice and provided for in the Settlement Agreements.
4. Separate Proof of Claim and Release forms must be submitted for each separate legal entity.
5. Trustees, executors, administrators, custodians, or other nominees who are completing and signing this Proof of Claim and Release form on behalf of the claimant must also submit:
 - a. A description of the capacity in which they are acting (which must be accompanied by supporting documentation);
 - b. The name, account number, last four digits of social security number, employer identification number, or taxpayer identification number (or for non-U.S. claimants, a comparable government-issued national identification number), address, and telephone number of the person or entity on whose behalf they are acting; and
 - c. Evidence of their authority to bind the person or entity on whose behalf they are acting. Authority to complete and sign a Proof of Claim and Release form cannot be established by brokers demonstrating that only they have discretionary authority to trade in another person’s accounts.
6. Your payment amount, if any, will be determined pursuant to the Plans of Allocation that are approved by the Court based on the Settlement Administrator’s review of the Proof of Claim and Release form that you submit. For more information, please refer to the Plans of Allocation available at www.GoldFixSettlement.com. Submission of this Proof of Claim and Release form does not assure that you will share in any Net Settlement Fund. All forms will be reviewed, and documentation of proof may be requested. This may include, but is not limited to, trade data and other documentation demonstrating your transactions in physical gold and/or gold financial instruments.

7. You should be aware that it will take a significant amount of time to process fully all of the Proofs of Claim and to administer the Settlements. This work will be completed as promptly as possible, given the need to investigate and tabulate each Proof of Claim. Please notify the Settlement Administrator of any change of address.
8. DEADLINE: You must submit your completed signed Proof of Claim and Release form either electronically or via mail POSTMARKED no later than **[[MONTH DAY]]**, 2022, to the below address.

In re Commodity Exchange, Inc., Gold Futures and Options Trading Litigation
P.O. Box 8519
Philadelphia, PA 19101-8519

9. Unless otherwise instructed, any Claim Form will be treated as an attempt to state a claim in connection with all three pending Settlements. If you only wish to submit a claim with respect to certain Settlement Funds, please contact the Settlement Administrator.
10. **To submit your claim electronically online visit www.GoldFixSettlement.com.**

PART II: SCHEDULE OF GOLD TRANSACTIONS

1. **FIX-LINKED TRANSACTIONS:** “Fix-Linked Transaction” means a contract of any of the gold-related transaction types listed in the definition of Settlement Class, where the price is expressly linked to the London PM Gold Market Fixing.

List all transaction amounts (adding all purchase premiums for put options, sales premiums for call options, and all sales amounts for all other transactions, *see* the “Frequently Asked Question” section of the settlement website) that you had annually by year from January 1, 2004 through June 30, 2013 inclusive on the lines below (must be documented).

- **DO NOT INCLUDE POSITIONS THAT WERE OPENED AND CLOSED IN THE SAME DAY.**
- **DO NOT INCLUDE TRANSACTIONS THAT DID NOT OCCUR IN THE UNITED STATES OR ON AN EXCHANGE IN THE UNITED STATES.**
- **DO NOT INCLUDE TRANSACTIONS IN SHARES OF GOLD ETFs.**

Year of Transaction(s)	Annual Transaction Amount in US \$¹	Type of Supporting Documentation Used to Calculate My Claim
2004		
2005		
2006		
2007		
2008		
2009		
2010		
2011		
2012		
January 1, 2013 through June 30, 2013		

To submit your claim electronically online visit www.GoldFixSettlement.com

¹ If your transaction was denominated in a currency other than U.S. dollars, convert the transactional amount into U.S. dollars using the historical exchange rate for the applicable currency as close to the date of your transaction as is reasonably possible.

2. **NON-ETF OTHER TRANSACTIONS:** “Other Transaction” means a contract of any of the gold-related transaction types listed in the definition of Settlement Class, including in the appropriate direction (i.e., buy or sell), that is not a Fix-Linked Transaction. Submissions for Other Transactions tied to shares of gold ETFs, and day-trades, are to be separately stated in tables 3 and 4 further below. In this table 2, list all non-ETF share, non day-trade Other Transaction amounts (adding all purchase premiums for put options, sale premiums for call options, and all sale amounts for all other transactions, *see* the “Frequently Asked Question” section of the settlement website) that you had annually by year from January 1, 2004 through June 30, 2013 inclusive on the lines below (must be documented).

- **DO NOT INCLUDE POSITIONS THAT WERE OPENED AND CLOSED IN THE SAME DAY.**
- **DO NOT INCLUDE TRANSACTIONS THAT DID NOT OCCUR IN THE UNITED STATES OR ON AN EXCHANGE IN THE UNITED STATES.**
- **DO NOT INCLUDE TRANSACTIONS IN SHARES OF GOLD ETFS.**

Year of Transaction(s)	Annual Transaction Amount in US \$²	Type of Supporting Documentation Used to Calculate My Claim
2004		
2005		
2006		
2007		
2008		
2009		
2010		
2011		
2012		
January 1, 2013 through June 30, 2013		

To submit your claim electronically online visit www.GoldFixSettlement.com.

² If your transaction was denominated in a currency other than U.S. dollars, convert the transactional amount into U.S. dollars using the historical exchange rate for the applicable currency as close to the date of your transaction as is reasonably possible.

3. **ETF OTHER TRANSACTIONS:** For all shares in the gold ETFs “GLD,” “IAU,” “SGOL,” PHYS,” “GTU,” and “PHAU,” list all sale amounts that you had annually by year from January 1, 2004 through June 30, 2013 inclusive on the lines below (must be documented). If you believe other ETF shares should qualify as “gold ETFs” as described in footnote 1 of the Plans of Allocation, please contact the Settlement Administrator.

- **DO NOT INCLUDE POSITIONS THAT WERE OPENED AND CLOSED IN THE SAME DAY.**
- **DO NOT INCLUDE TRANSACTIONS THAT DID NOT OCCUR IN THE UNITED STATES OR ON AN EXCHANGE IN THE UNITED STATES.**
- **ONLY INCLUDE TRANSACTIONS FOR “GLD,” “IAU,” “SGOL,” PHYS,” “GTU,” and “PHAU” ETFS BELOW.**

Year of Transaction(s)	Annual Transaction Amount in US \$³	Type of Supporting Documentation Used to Calculate My Claim
2004		
2005		
2006		
2007		
2008		
2009		
2010		
2011		
2012		
January 1, 2013 through June 30, 2013		

To submit your claim electronically online visit www.GoldFixSettlement.com.

³ If your transaction was denominated in a currency other than U.S. dollars, convert the transactional amount into U.S. dollars using the historical exchange rate for the applicable currency as close to the date of your transaction as is reasonably possible.

4. **DAY-TRADE OTHER TRANSACTIONS:** For positions that were opened and closed the same day that would otherwise qualify for inclusion in any of the first three tables above, but for the request to exclude such positions above, list all such “day-trade” Other Transaction amounts (adding all purchase premiums for put options, sale premiums for call options, and all sale amounts for all other transactions, *see* the “Frequently Asked Question” section of the settlement website) that you had annually by year from January 1, 2004 through June 30, 2013 inclusive on the lines below (must be documented). If you are unable or unwilling to separate out your day-trade transactions from other positions, you may include all such amounts here, but then those amounts cannot be included in the above tables. Doing so will subject all such amounts to the treatment afforded to day-trades according to the plans of allocation approved by the court.

- **DO NOT INCLUDE TRANSACTIONS THAT DID NOT OCCUR IN THE UNITED STATES OR ON AN EXCHANGE IN THE UNITED STATES.**

Year of Transaction(s)	Annual Transaction Amount in US \$⁴	Type of Supporting Documentation Used to Calculate My Claim
2004		
2005		
2006		
2007		
2008		
2009		
2010		
2011		
2012		
January 1, 2013 through June 30, 2013		

To submit your claim electronically online visit www.GoldFixSettlement.com.

⁴ If your transaction was denominated in a currency other than U.S. dollars, convert the transactional amount into U.S. dollars using the historical exchange rate for the applicable currency as close to the date of your transaction as is reasonably possible.

PART III: CLAIMANT CERTIFICATION

1. I (We) submit this Proof of Claim form under the terms of the Plans of Allocation of Net Settlement Fund described in the Notice for the three Settlement Agreements.
2. I (We) also submit to the jurisdiction of the United States District Court for the Southern District of New York (the “Court”), with respect to my (our) claim as a Settlement Class Member(s) and for purposes of enforcing the releases set forth herein.
3. I (We) further acknowledge that I (we) will be bound by the terms of any judgment entered in connection with the Settlements in the *In re Commodity Exch., Inc., Gold Futures and Options Trading Litigation* Action, including the releases set forth therein.
4. I (We) have read the Notices and Proof of Claim and Release Form, including the descriptions of the releases provided for in the Settlement Agreements.
5. I (We) am (are) a member of the Settlement Class, and am (are) not one of the individuals or entities excluded from the Settlement Class for any Settlement.
6. I (We) have not submitted a request for exclusion in connection with any settlement agreement in this action.
7. I (We) have made the transactions included in the data submitted with this Proof of Claim and Release Form, and have not assigned the claims against the Released Parties to another.
8. I (We) agree to furnish additional information to the Settlement Administrator to support this claim, such as additional documentation for Fix-Linked or Other Transactions if requested to do so, and acknowledge failure to do so may result in a denial of my (our) claim.
9. I (We) have not submitted any other claim covering the same gold transactions and know of no other person having done so on my (our) behalf.
10. I (We) certify that I am (we are) not subject to backup withholding under the provisions of Section 3406(a)(1)(C) of the Internal Revenue Code. Note: If you have been notified by the Internal Revenue Service that you are subject to backup withholding, please strike out the language that you are not subject to backup withholding.
11. I (We) hereby warrant and represent that all the transactions listed above occurred in the United States.
12. I (We) acknowledge that, as of the effective date of the relevant settlement agreements, pursuant to the terms set forth in the Original Settlements and the Third Settlement Agreement and by operation of law and the Final Judgments and Orders of Dismissal, I (we) shall be deemed to have, fully, finally, and forever, waived, released, relinquished, and discharged all Released Claims (as defined in the relevant Settlement Agreements), and shall forever be enjoined from prosecuting any or all of the Released Claims against any of the Released Parties (as defined in the relevant Settlement Agreements).
13. By submitting a claim under the Settlement Agreements, I (we) consent to the disclosure of and waive any protections provided by applicable bank secrecy law, data privacy law, or any similar confidentiality protections with respect to information relating to my (our) trades in gold and gold instruments to the Court-appointed Settlement Administrator and Class Counsel for use in the claims administration process and in further proceedings in the Action. I (we) further consent to the release to the Settlement Administrator of any and all documents reflecting my transactions or holdings in gold from January 1, 2004 to June 30, 2013, inclusive, that may be obtained from Defendants or third parties, including, but not limited to, my brokerage firm(s).

UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE UNITED STATES OF AMERICA, I (WE) CERTIFY THAT ALL OF THE INFORMATION PROVIDED BY ME (US) ON THE PROOF OF CLAIM AND RELEASE FORM IS TRUE, CORRECT, AND COMPLETE, AND THAT DATA SUBMITTED IN CONNECTION WITH THIS CLAIM FORM ARE TRUE AND CORRECT.

Signature of Beneficial Owner

Print Beneficial Owner Name

Date

Signature of Co-Owner (if applicable)

Print Co-Owner Name

Date

EXHIBIT 7

**In re Commodity Exchange, Inc., Gold Futures and Options Trading
Litigation**

UNITED STATES DISTRICT COURT – SOUTHERN DISTRICT OF NEW YORK
Civil Action No.: 14-MD-2548-VEC

**INSTRUCTIONS FOR COMPLETING THE REVISED PROOF OF CLAIM AND
RELEASE FORM**

1. If between January 1, 2004 and June 30, 2013 you either: (A) sold any physical gold or financial or derivative instrument in which gold is the underlying reference asset, including, but not limited to, selling (i) gold bullion, gold bullion coins, gold bars, gold ingots or any form of physical gold, (ii) gold futures contracts in transactions conducted in whole or in part on COMEX or any other exchange operated in the United States, (iii) shares in gold exchange-traded funds (“ETFs”), (iv) gold call options in transactions conducted over-the-counter or in whole or in part on COMEX or any other exchange operated in the United States; (v) gold spot, gold forwards or gold swaps over-the-counter; or (B) bought gold put options in transactions conducted over-the-counter or in whole or in part on COMEX or on any other exchange operated in the United States, you may be eligible to receive a payment from settlements reached in this Action.
2. To recover as a Class Member based on your claims in this Action you must complete and sign this Proof of Claim and Release form. If you fail to submit a properly completed and addressed Proof of Claim and Release form, your claim may be rejected and you may be precluded from any recovery from the Net Settlement Fund created in connection with ~~settlements the Action~~the settlements. *However, unless directed otherwise by that Class Member, a claim form previously submitted in connection with the two prior settlements will be treated as if also submitted in connection with the Third Settlement Agreement.* Thus, if you already have submitted a claim, and do not wish to submit new “day-trade” data, you do not need to do anything to potentially benefit from the Third Settlement Agreement. If you have questions on whether you already submitted a claim, please contact the Settlement Administrator.
3. Capitalized terms not defined in this Proof of Claim and Release form have the same meaning as defined in the ~~Notice of Proposed Class Action Settlement and Class Members’ Rights and Notices for~~ the Settlement Agreements posted on the Settlement Website in connection with the settlement agreements, www.GoldFixSettlement.com. It is important that you read the ~~Notice of Proposed Class Action Settlement and Class Members’ Rights~~Notices. By signing and submitting a Proof of Claim and Release Form, you will be certifying that you have read the ~~Notice~~Notices, including the terms of the releases described in the Notice and provided for in the Settlement Agreements.
4. Separate Proof of Claim and Release forms must be submitted for each separate legal entity.
5. Trustees, executors, administrators, custodians, or other nominees who are completing and signing this Proof of Claim and Release form on behalf of the claimant must also submit:
 - a. A description of the capacity in which they are acting (which must be accompanied by supporting documentation);
 - b. The name, account number, last four digits of social security number, employer identification number, or taxpayer identification number (or for non-U.S. claimants, a comparable government-issued national identification number), address, and telephone number of the person or entity on whose behalf they are acting; and
 - c. Evidence of their authority to bind the person or entity on whose behalf they are acting. Authority to complete and sign a Proof of Claim and Release form cannot be established by brokers demonstrating that only they have discretionary authority to trade in another person’s accounts.
6. Your payment amount, if any, will be determined pursuant to the ~~Plan~~Plans of Allocation that ~~is~~are approved by the Court based on the ~~Claims Settlement~~ Administrator’s review of the Proof of Claim and Release form that you submit. For more information, please refer to the ~~Plan~~Plans of Allocation available at www.GoldFixSettlement.com. Submission of this Proof of Claim and Release form does not assure that you will share in ~~the any~~ Net Settlement Fund. All forms will be reviewed, and documentation of proof may be requested. This may include, but is not limited to, trade data and other documentation demonstrating your transactions in physical gold and/or gold financial instruments.

7. You should be aware that it will take a significant amount of time to process fully all of the Proofs of Claim and to administer the ~~Settlement~~Settlements. This work will be completed as promptly as possible, given the need to investigate and tabulate each Proof of Claim. Please notify the ~~Claims~~Settlement Administrator of any change of address.
8. DEADLINE: You must submit your completed signed Proof of Claim and Release form either electronically or via mail POSTMARKED no later than ~~August 23~~[[MONTH DAY]], 2022, 2021 to the below address.

In re Commodity Exchange, Inc., Gold Futures and Options Trading Litigation
P.O. Box 8519
Philadelphia, PA 19101-8519

9. Unless otherwise instructed, any Claim Form will be treated as an attempt to state a claim in connection with all three pending Settlements. If you only wish to submit a claim with respect to certain Settlement Funds, please contact the Settlement Administrator.
10. ~~9.~~ **To submit your claim electronically online visit www.GoldFixSettlement.com.**

To submit your claim electronically online visit www.GoldFixSettlement.com.

PART II: SCHEDULE OF GOLD TRANSACTIONS

1. **FIX-LINKED TRANSACTIONS:** “Fix-Linked Transaction” means a contract of any of the gold-related transaction types listed in the definition of Settlement Class, where the price is expressly linked to the London PM Gold Market Fixing.

List all transaction amounts (adding all purchase premiums for put options, sales premiums for call options, and all sales amounts for all other transactions, *see* the “Frequently Asked Question” section of the settlement website) that you had annually by year from January 1, 2004 through June 30, 2013 inclusive on the lines below (must be documented).

- **DO NOT INCLUDE POSITIONS THAT WERE OPENED AND CLOSED IN THE SAME DAY.**
- **DO NOT INCLUDE TRANSACTIONS THAT DID NOT OCCUR IN THE UNITED STATES OR ON AN EXCHANGE IN THE UNITED STATES.**
- **DO NOT INCLUDE TRANSACTIONS IN SHARES OF GOLD ETFs.**

Year of Transaction(s)	Annual Transaction Amount in US \$¹	Type of Supporting Documentation Used to Calculate My Claim
2004		
2005		
2006		
2007		
2008		
2009		
2010		
2011		
2012		
January 1, 2013 through June 30, 2013		

To submit your claim electronically online visit www.GoldFixSettlement.com.

¹ If your transaction was denominated in a currency other than U.S. dollars, convert the transactional amount into U.S. dollars using the historical exchange rate for the applicable currency as close to the date of your transaction as is reasonably possible.

2. **NON-ETF OTHER TRANSACTIONS:** “Other Transaction” means a contract of any of the gold-related transaction types listed in the definition of Settlement Class, including in the appropriate direction (i.e., buy or sell), that is not a Fix-Linked Transaction. Submissions for Other Transactions tied to shares of gold ETFs-, and day-trades, are to be separately stated in ~~table 3~~ tables 3 and 4 further below. In this table 2, list all non-ETF share-, non day-trade Other Transaction amounts (adding all purchase premiums for put options, sale premiums for call options, and all sale amounts for all other transactions, *see* the “Frequently Asked Question” section of the settlement website) that you had annually by year from January 1, 2004 through June 30, 2013 inclusive on the lines below (must be documented).

- **DO NOT INCLUDE POSITIONS THAT WERE OPENED AND CLOSED IN THE SAME DAY.**
- **DO NOT INCLUDE TRANSACTIONS THAT DID NOT OCCUR IN THE UNITED STATES OR ON AN EXCHANGE IN THE UNITED STATES.**
- **DO NOT INCLUDE TRANSACTIONS IN SHARES OF GOLD ETFS.**

Year of Transaction(s)	Annual Transaction Amount in US \$²	Type of Supporting Documentation Used to Calculate My Claim
2004		
2005		
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2010		
2011		
2012		
January 1, 2013 through June 30, 2013		

To submit your claim electronically online visit www.GoldFixSettlement.com.

² If your transaction was denominated in a currency other than U.S. dollars, convert the transactional amount into U.S. dollars using the historical exchange rate for the applicable currency as close to the date of your transaction as is reasonably possible.

3. **ETF OTHER TRANSACTIONS:** For all shares in the gold ETFs “GLD”~~or,~~ “IAU,” “SGOL,” PHYS,” “GTU,” and “PHAU,” list all ~~sales of~~ sale amounts that you had annually by year from January 1, 2004 through June 30, 2013 inclusive on the lines below (must be documented). If you believe other ETF shares should qualify as “gold ETFs” as described in footnote 1 of the Plan Plans of Allocation, please contact the Claims Settlement Administrator.

- **DO NOT INCLUDE POSITIONS THAT WERE OPENED AND CLOSED IN THE SAME DAY.**
- **DO NOT INCLUDE TRANSACTIONS THAT DID NOT OCCUR IN THE UNITED STATES OR ON AN EXCHANGE IN THE UNITED STATES.**
- **ONLY INCLUDE TRANSACTIONS FOR “GLD”~~OR,~~ “IAU,” “SGOL,” PHYS,” “GTU,” and “PHAU” ETFS BELOW.**

<u>Year of Transaction(s)</u>	<u>Annual Transaction Amount in US \$³</u>	<u>Type of Supporting Documentation Used to Calculate My Claim</u>
<u>2004</u>		
<u>2005</u>		
<u>2006</u>		
<u>2007</u>		
<u>2008</u>		
<u>2009</u>		
<u>2010</u>		
<u>2011</u>		
<u>2012</u>		
<u>January 1, 2013 through June 30, 2013</u>		

To submit your claim electronically online visit www.GoldFixSettlement.com.

³ If your transaction was denominated in a currency other than U.S. dollars, convert the transactional amount into U.S. dollars using the historical exchange rate for the applicable currency as close to the date of your transaction as is reasonably possible.

4. **DAY-TRADE OTHER TRANSACTIONS:** For positions that were opened and closed the same day that would otherwise qualify for inclusion in any of the first three tables above, but for the request to exclude such positions above, list all such “day-trade” Other Transaction amounts (adding all purchase premiums for put options, sale premiums for call options, and all sale amounts for all other transactions, *see* the “Frequently Asked Question” section of the settlement website) that you had annually by year from January 1, 2004 through June 30, 2013 inclusive on the lines below (must be documented). If you are unable or unwilling to separate out your day-trade transactions from other positions, you may include all such amounts here, but then those amounts cannot be included in the above tables. Doing so will subject all such amounts to the treatment afforded to day-trades according to the plans of allocation approved by the court.

- **DO NOT INCLUDE TRANSACTIONS THAT DID NOT OCCUR IN THE UNITED STATES OR ON AN EXCHANGE IN THE UNITED STATES.**

Year of Transaction(s)	Annual Transaction Amount in US \$³⁴	Type of Supporting Documentation Used to Calculate My Claim
2004		
2005		
2006		
2007		
2008		
2009		
2010		
2011		
2012		
January 1, 2013 through June 30, 2013		

³⁴ If your transaction was denominated in a currency other than U.S. dollars, convert the transactional amount into U.S. dollars using the historical exchange rate for the applicable currency as close to the date of your transaction as is reasonably possible.

To submit your claim electronically online visit www.GoldFixSettlement.com.

PART III: CLAIMANT CERTIFICATION

1. I (We) submit this Proof of Claim form under the terms of the ~~Plan-Plans~~ of Allocation of Net Settlement Fund described in the Notice ~~of Proposed Class Action for the three~~ Settlement ~~and Class Members' Rights~~ Agreements.
2. I (We) also submit to the jurisdiction of the United States District Court for the Southern District of New York (the "Court"), with respect to my (our) claim as a Settlement Class Member(s) and for purposes of enforcing the releases set forth herein.
3. I (We) further acknowledge that I (we) will be bound by the terms of any judgment entered in connection with the ~~Settlement-Settlements~~ in the *In re Commodity Exch., Inc., Gold Futures and Options Trading Litigation* Action, including the releases set forth therein.
4. I (We) have read the ~~Notice-Notices~~ and Proof of Claim and Release Form, including the descriptions of the releases provided for in the Settlement Agreements.
5. I (We) am (are) a member of the Settlement Class(es), and am (are) not one of the individuals or entities excluded from the Settlement ~~Classes~~ Class for any Settlement.
6. I (We) have not submitted a request for exclusion in connection with any settlement agreement in this action.
7. I (We) have made the transactions included in the data submitted with this Proof of Claim and Release Form, and have not assigned the claims against the Released Parties to another.
8. I (We) agree to furnish additional information to the ~~Claims Settlement~~ Administrator to support this claim, such as additional documentation for Fix-Linked or Other Transactions if requested to do so, and acknowledge failure to do so may result in a denial of my (our) claim.
9. I (We) have not submitted any other claim covering the same gold transactions and know of no other person having done so on my (our) behalf.
10. I (We) certify that I am (we are) not subject to backup withholding under the provisions of Section 3406(a)(1)(C) of the Internal Revenue Code. Note: If you have been notified by the Internal Revenue Service that you are subject to backup withholding, please strike out the language that you are not subject to backup withholding.
11. I (We) hereby warrant and represent that all the transactions listed above occurred in the United States.
12. I (We) acknowledge that, as of the effective date of the ~~Settlements~~ relevant settlement agreements, pursuant to the terms set forth in the Original Settlements and the Third Settlement ~~Agreements- Agreement~~ and by operation of law and the Final Judgments and Orders of Dismissal, I (we) shall be deemed to have, fully, finally, and forever, waived, released, relinquished, and discharged all Released Claims (as defined in the relevant Settlement Agreements), and shall forever be enjoined from prosecuting any or all of the Released Claims against any of the Released Parties (as defined in the relevant Settlement Agreements).
13. By submitting a claim under the ~~Settlements~~ Settlement Agreements, I (we) consent to the disclosure of and waive any protections provided by applicable bank secrecy law, data privacy law, or any similar confidentiality protections with respect to information relating to my (our) trades in gold and gold instruments to the Court-appointed ~~Claims Settlement~~ Administrator and Class Counsel for use in the claims administration process and in further proceedings in the Action ~~against Non-Settling Defendants~~. I (we) further consent to the release to the ~~Claims Settlement~~ Administrator of any and all documents reflecting my transactions or holdings in gold from January 1, 2004 to June 30, 2013, inclusive, that may be obtained from Defendants or third parties, including, but not limited to, my brokerage firm(s).

UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE UNITED STATES OF AMERICA, I (WE) CERTIFY THAT ALL OF THE INFORMATION PROVIDED BY ME (US) ON THE PROOF OF CLAIM AND RELEASE FORM IS TRUE, CORRECT, AND COMPLETE, AND THAT DATA SUBMITTED IN CONNECTION WITH THIS CLAIM FORM ARE TRUE AND CORRECT.

Signature of Beneficial Owner

Print Beneficial Owner Name

Date

Signature of Co-Owner (if applicable)

Print Co-Owner Name

Date

EXHIBIT 8

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

IN RE:

COMMODITY EXCHANGE, INC., GOLD
FUTURES AND OPTIONS TRADING
LITIGATION

This Document Relates To All Actions

Case No. 14-MD-2548 (VEC)
14-MC-2548 (VEC)

Hon. Valerie E. Caproni

**[PROPOSED] ORDER PROVIDING NOTICE TO THE SETTLEMENT CLASS AND
PRELIMINARY APPROVING THE PLAN OF ALLOCATION REGARDING THE
THIRD SETTLEMENT AGREEMENT**

WHEREAS, this matter has come before the Court by way of Plaintiffs' Motion for an Order Providing for Notice Regarding the Third Settlement Agreement and Preliminarily Approving the Plan of Allocation for the Third Settlement Agreement;

WHEREAS, the above-captioned matter is a putative class action before this Court;

WHEREAS, the Court finds that the proposed forms of Class Notice and the proposed Class Notice Plan are reasonable and rational, and the proposed Plan of Allocation is reasonable and rational and should be sent to Class Members for their review prior to the Fairness Hearing:

IT IS HEREBY ORDERED that:

1. Except for the terms expressly defined herein, the Court adopts and incorporates the definitions in the Stipulation and Agreement of Settlement with Barclays Bank Plc, The Bank Of Nova Scotia, Société Générale, And The London Gold Market Fixing Limited (the "Third Settlement Agreement").

2. The terms of the Plan of Allocation for the Third Settlement Agreement are preliminarily approved as within the range of reasonableness, fairness, and adequacy.

3. If they have not already done so, Newly Settling Defendants shall comply with the notice requirements of the Class Action Fairness Act, 28 U.S.C. §1715, within 10 days of entry of this Order.

4. The Plaintiffs' notice program should begin no later than 45 days of this Order (the "Notice Date"). No later than this time, the Settlement Administrator shall cause copies of the Notice and Claim Form, in the form (without material variation) of Exhibits 1 and 6 to the Declaration of Daniel Brockett, dated November 12, 2021 ("Brockett Declaration"), to begin being distributed in accordance with a notice plan used for the prior two settlements, as detailed in the December 7, 2020, Declaration of Jeanne C. Finegan. The foregoing mailings shall be

completed no later than 7 days after the Notice Date.¹

5. The Settlement Administrator shall continue to maintain the settlement website, www.GoldFixSettlement.com, using it for purposes of the Third Settlement Agreement as well as the prior two settlements. The website shall be maintained until the termination of the administration of the settlements. The website shall continue to identify important deadlines, provide answers to frequently asked questions, and include copies of the Third Settlement Agreement (including exhibits), this Order, the mailed and summary notices, the motions for preliminary approval and all exhibits attached thereto, and the motion for issuance of the class notice plan and approval of the allocation plan. The website may be amended as appropriate during the course of the administration of the settlements. The settlement website, www.GoldFixSettlement.com, shall continue to be searchable on the Internet.

6. The Settlement Administrator shall continue to maintain a toll-free interactive voice response telephone system containing recorded answers to frequently asked questions, along with an option permitting callers to speak to live operators or to leave messages in a voicemail box. It shall be updated no later than the Notice Date with information regarding the Third Settlement Agreement and the revision to the Plan of Allocation.

7. The proposed media campaign shall begin no later than 10 days after Notice Date, including publication of the short-form notice, without material variation from that attached as Exhibit 2 to the Brockett Declaration.

8. The Court approves, in form and substance, the Notice, the Summary Notice, the Claim Form, and the continuation of the website as described herein. The Class Notice specified

¹ For the sake of clarity, in light of foreign-law concerns, Société Générale mailings may again include a “special notice” alongside the Notice Packet, substantially in the form used in connection with the prior two settlements. *See* ECF No. 512 at 3; ECF No. 563-2.

herein (i) is the best notice practicable; (ii) is reasonably calculated, under the circumstances, to apprise members of the Settlement Class of the pendency and status of this Action and of their right to object to or exclude themselves from the proposed Settlement; (iii) is reasonable and constitutes due, adequate, and sufficient notice to all persons entitled to receive notice of the Fairness Hearing; and (iv) fully satisfies all applicable requirements of Rule 23 of the Federal Rules of Civil Procedure, Due Process, and any other applicable rules or laws.

9. Concurrent with the motion for final approval of the Third Settlement Agreement, and with any subsequent updates as necessary, Co-Lead Counsel shall file or cause to be filed a sworn statement attesting to the compliance with the paragraphs in this Order governing the provision of notice.

10. Any member of the Settlement Class and any governmental entity that objects to the fairness, reasonableness, or adequacy of any term or aspect of the Third Settlement Agreement, the application for attorneys' fees and expenses and any incentive awards made in connection with the Third Settlement Agreement, or the Final Approval Order and Final Judgment, or who otherwise wishes to be heard, may appear in person or by his or her attorney at the Fairness Hearing and present evidence or argument that may be proper and relevant. However, except for good cause shown, no person other than Co-Lead Counsel and Newly Settling Defendants' counsel shall be heard and no papers, briefs, pleadings, or other documents submitted by any member of the Settlement Class or any governmental entity shall be considered by the Court unless, not later than 21 days after the opening motions are filed (the "Objection Deadline"), the member of the Settlement Class or the governmental entity files with the Court (and serves the same on or before the date of such filing by hand or overnight mail on the Co-Lead Counsel and counsel of record for Newly Settling Defendants) a statement of the objection,

as well as the specific legal and factual reasons for each objection, including all support that the objecting member of the Settlement Class or the governmental entity wishes to bring to the Court's attention and all evidence the objecting member of the Settlement Class or governmental entity wishes to introduce in support of his, her, or its objection or motion. Such submission must contain: (1) a heading that refers to this Action by case name and case number; (2) a statement of the specific legal and factual basis for each objection, including whether the objection applies only to the objecting person, a specific subset of the Class or the entire Class; (3) a statement of whether the objecting person or entity intends to appear at the Fairness Hearing, either in person or through counsel and, if through counsel, a statement identifying that counsel by name, address, and telephone number; (4) a description of any and all evidence the objecting person or entity may offer at the Fairness Hearing, including but not limited to the names, addresses, and expected testimony of any witnesses; all exhibits intended to be introduced at the Fairness Hearing; and documentary proof of the objecting person's membership in the Settlement Class; (5) a description of the Gold Instruments transactions entered into by the member of the Settlement Class that fall within the Settlement Class definition; and (6) a list of other cases in which the objector or counsel for the objector has appeared either as an objector or counsel for an objector in the last five years. Persons who have timely submitted a valid Request for Exclusion are not members of the Settlement Class and are not entitled to object.

11. Any objection to the Third Settlement Agreement submitted by a member of the Settlement Class pursuant to paragraph 10 of this Order must be signed by the member of the Settlement Class (or his, her, or its legally authorized representative), even if the member of the Settlement Class is represented by counsel. The right to object to the proposed Third Settlement Agreement must be exercised individually by a member of the Settlement Class or the Person's

attorney, and not as a member of a group, class, or subclass, except that such objections and may be submitted by a member of the Settlement Class's legally authorized representative.

12. Any member of the Settlement Class or governmental entity that fails to object in the manner described in paragraphs 10-11 of this Order shall be deemed to have waived the right to object (including any right of appeal) and shall be forever barred from raising such objection in this or any other action or proceeding related to or arising out of the Third Settlement Agreement.

13. Any Request for Exclusion from the Third Settlement Agreement by a member of the Settlement Class for the Third Settlement Agreement must be sent in writing by U.S. first class mail to the Settlement Administrator at the address in the mailed notice and received no later than 60 days after the Notice Date (the "Exclusion Bar Date"). Any Request for Exclusion must contain the following information: (a) the name, address, and telephone number of the member of the Settlement Class; (b) a list of all trade names or business names that the member of the Settlement Class requests to be excluded; (c) the name of this Action ("*In re Commodity Exchange, Inc., Gold Futures and Options Trading Litigation*, No. 14-MD-02548-VEC (S.D.N.Y.)"); (d) a statement certifying such person is a member of the Settlement Class; (e) a description of the Gold Instruments transactions entered into by the Settlement Class Member that fall within the Settlement class definition; and (f) a statement that "I/we hereby request that I/we be excluded from the Settlement Class with respect to the Third Settlement Agreement."

14. Unless the Court determines otherwise, a Request for Exclusion shall not be effective unless it provides all of the information listed in paragraph 13 of this Order, complies with this paragraph 14, and is received by the Exclusion Bar Date, as set forth in the Class Notice. If a member of the Settlement Class is unable or unwilling to disclose transaction

information or other information required in paragraph 13(e), the Request for Exclusion must include a concise statement explaining why that member is unable or unwilling to do so and explain why that member should nonetheless be excluded; the Court will determine the effectiveness of such a Request for Exclusion on an individual basis. Any Request for Exclusion from the Third Settlement Agreement submitted by a member of the Settlement Class pursuant to paragraph 13 of this Order must be signed by the member of the Settlement Class (or his, her, or its legally authorized representative). The right to be excluded from the proposed Third Settlement Agreement must be exercised individually by a member of the Settlement Class or his, her, or its attorney, and not as a member of a group, class, or subclass, except that a Request for Exclusion may be submitted by a member of the Settlement Class's legally authorized representative. The Parties may request leave of the Court to seek discovery from any member of the Settlement Class who submits any Request for Exclusion.

15. Any member of the Settlement Class for the Third Settlement Agreement who does not submit a timely and valid written Request for Exclusion from the Settlement Class shall be bound by all proceedings, orders, and judgments in the Action, even if the member of the Settlement Class for the Third Settlement Agreement has previously initiated or subsequently initiates individual litigation or other proceedings encompassed by the Released Claims, and even if such member of the Settlement Class never received actual notice of the Action or the proposed Third Settlement Agreement.

16. The Settlement Administrator shall promptly log each Request for Exclusion that it receives and provide copies of the log to Co-Lead Counsel and Newly Settling Defendants' counsel as requested.

17. The Settlement Administrator shall furnish Co-Lead Counsel and counsel for

Newly Settling Defendants with copies of any and all objections, notices of intention to appear, and other communications that come into its possession (except as otherwise expressly provided in the Settlement Agreement) within one business day of receipt thereof.

18. The Settlement Administrator shall provide counsel for Newly Settling Defendants and Co-Lead Counsel with copies of any Requests for Exclusion (including all documents submitted with such requests) and any written revocations of Requests for Exclusion as soon as possible after receipt by the Settlement Administrator and, in any event, within five business days after receipt of such materials. Co-Lead Counsel shall file the opt-out list and an affidavit of the Settlement Administrator attesting to the accuracy of such list with the Court with the appropriate motion for final approval.

19. All Proof of Claim and Release forms shall be submitted by members of the Settlement Class to the Settlement Administrator as directed in the mailed notice and must be postmarked no later than 60 days after the Notice Date.

20. To effectuate the Third Settlement Agreement and the notice provisions, the Settlement Administrator shall be responsible for: (a) maintaining a P.O. Box (identified in the mailed notice and the publication notice), maintaining a toll-free interactive voice response telephone system and call center, and maintaining a website for the purpose of communicating with members of the Settlement Class; (b) effectuating the Class Notice plan, including by running potential members of the Settlement Class's addresses through the National Change of Address Database to obtain the most current address for each person; (c) accepting and maintaining documents sent from members of the Settlement Class, including Proof of Claim and Release forms, and other documents relating to the Settlement and its administration; (d) administering claims for allocation of funds among members of the Settlement Class; (e)

determining the timeliness of each Proof of Claim and Release submitted by members of the Settlement Class, and the adequacy of the supporting documents submitted by members of the Settlement Class; (f) corresponding with members of the Settlement Class regarding any deficiencies in their Proof of Claim and Release forms and regarding the final value of any allowed claim; (g) calculating each Authorized Claimant's allowed claim pursuant to the Plan of Allocation; (h) determining the timeliness and validity of all Requests for Exclusion received from members of the Settlement Class; (i) preparing the opt-out list and an affidavit attaching and attesting to the accuracy of such list, and providing same to Co-Lead Counsel and counsel for Newly Settling Defendants; and (j) providing Co-Lead Counsel and counsel for Newly Settling Defendants with copies of any Requests for Exclusion (including all documents submitted with such requests).

21. The Settlement Administrator shall maintain a copy of all paper communications related to the Settlement for a period of one year after distribution of the Net Settlement Fund defined in the Third Settlement Agreement ("Net Settlement Fund"), and shall maintain a copy of all electronic communications related to the Settlements for a period of three years after distribution of the Net Settlement Fund, after which time all such materials shall be destroyed, absent further direction from the Parties or the Court.

22. All reasonable expenses incurred in preparing and providing the Settlement Class Notice and paying other administrative expenses shall be paid from the Settlement Fund, as set forth in Paragraph 8(a) of the Third Settlement Agreement. In the event the Court does not approve the Third Settlement Agreement, or if the Third Settlement Agreement is terminated or otherwise fail to become effective or final, neither Plaintiffs nor any of their counsel shall have any obligation to repay any amounts incurred or disbursed pursuant to Paragraph 8(a) of the

Third Settlement Agreement.

23. Co-Lead Counsel shall file their motions for payment of attorneys' fees and reimbursement of expenses, incentive awards, and for final approval of the Third Settlement Agreement by 45 days after the deadline for the mailing of claim forms, and any reply papers (which may include a response to objections, if any) shall be filed by 21 days after the Objection Deadline.

24. A hearing will be held on a date of the Court's convenience on or after _____, 2022 at __ [a.m./p.m.] in Courtroom 443 of this Courthouse before the undersigned, to consider the fairness, reasonableness, and adequacy of the Settlements (the "Fairness Hearing"). The foregoing date, time, and place of the Fairness Hearing shall be set forth in the Class Notice, which is ordered herein, but shall be subject to adjournment or change by the Court without further notice to the members of the Settlement Class, other than that which may be posted at the Court or on the Settlement website at www.GoldFixSettlement.com. The Court reserves the right to conduct the final fairness hearing remotely.

25. The Court reserves the right to approve the Third Settlement Agreement at or after the Fairness Hearing with such modifications as may be consented to by the Parties and without further notice to the Settlement Class.

26. The Court may, for good cause, extend any of the deadlines set forth in this Order without notice to members of the Settlement Class, other than that which may be posted at the Court or on the Settlement website, www.GoldFixSettlement.com.

27. Unless otherwise specified, the word "days," as used herein, means calendar days. In the event that any date or deadline set forth herein falls on a weekend or federal or state legal holiday, such date or deadline shall be deemed moved to the first business day thereafter.

IT IS SO ORDERED.

DATED: _____

HON. VALERIE E. CAPRONI
UNITED STATES DISTRICT JUDGE

EXHIBIT 9

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

IN RE:

COMMODITY EXCHANGE, INC., GOLD
FUTURES AND OPTIONS TRADING
LITIGATION

This Document Relates To All Actions

Case No. 14-MD-2548 (VEC)
14-MC-2548 (VEC)

Hon. Valerie E. Caproni

**[PROPOSED] ORDER REGARDING NOTICE OF A REVISED PLAN OF
ALLOCATION FOR THE DEUTSCHE BANK AND HSBC SETTLEMENTS**

This matter having come before the Court on Plaintiffs' motion for approval of the Plan of Allocation of the proceeds of the Settlements with Deutsche Bank and HSBC in the above-captioned action, and Plaintiffs' response to the Court's October 19, 2021 order; the Court having considered all papers filed and proceedings had herein and otherwise being fully informed in the premises;

IT IS HEREBY ORDERED that:

1. This Order incorporates by reference the definitions and terms of the proposed Settlements set forth in each Stipulation and Agreement of Settlement, which were previously filed with the Court ("Stipulations" or "Settlements" or "first two settlements") (ECF Nos. 174-1, 487-1), and all capitalized terms used, but not defined herein, shall have the same meanings as set forth in the Stipulations.

2. Pursuant to and in full compliance with Rule 23 of the Federal Rules of Civil Procedure, this Court hereby finds and concludes that due and adequate notice was directed to all persons who are members of the Settlement Class who could be identified with reasonable effort, advising them of the Plan of Allocation and of their right to object thereto, and a full and fair opportunity was accorded to all persons and entities who are members of the Settlement Class to be heard with respect to the Plan of Allocation.

3. An objection was filed (ECF No. 579) that focused primarily on the treatment of positions opened and closed the same day ("day trades"). In response to the objection, a revised form of the Plan of Allocation has been proposed that affords different treatment for day-trades, but otherwise the revised Plan of Allocation is identical to that class members were given notice of. To the extent necessary under Rule 23, the Court approves the compromise and resolves the issues raised by the objection as below.

4. The Court preliminarily approves the proposed revision to the Plan of Allocation.

5. Though class members were told the Plan of Allocation could change without further notice, the Court also approves the proposal to include information about the revision in the materials used in connection with the Third Settlement Agreement, as seen in Exhibits 1 and 2 to the November 12, 2021 Declaration of Daniel L. Brockett. Without deciding whether it would have been necessary to do so, this proposal fully satisfies all applicable requirements of Rule 23 of the Federal Rules of Civil Procedure, Due Process, and any other applicable rules or laws with respect to the proposed change in the Plan of Allocation.

6. Class members may file new or revised Claim Forms pursuant to the revised Plan of Allocation. They may also object to the revised Plan of Allocation. The relevant deadlines, forms, and processes are the same as discussed in the separate order regarding the Third Settlement Agreement.

7. To confirm, as set forth in the proposed notice materials, the claims processes and deadlines discussed in connection with the Third Settlement Agreement shall also apply with respect to class members' ability to submit new or revised claims as against the first two settlements. However, the Settlement Administrator retains discretion to reject claims by wholly new claimants, or to reject the new non-day-trade claims by existing claimants, if processing such new information would unduly delay distribution of the settlement funds from the first two settlements.

8. Similarly, as also set forth in the proposed notice materials, the process for objecting to the Plans of Allocation is the same across all three settlements. Any member of the Settlement Class or governmental entity that fails to object in the manner described in the

Court's concurrent order regarding the Third Settlement Agreement shall be deemed to have waived the right to object (including any right of appeal) to the revised Plan of Allocation for the first two settlement agreements as well.

9. For the sake of clarity, however, neither this order or any other order entered as of the date of this order creates a new right to request an exclusion from the Settlement Class with respect to the Settlement. Nor does this order or any other ordered entered as of the date of this order create a new right to object to the terms of the Settlement, or to object to the now-pending pending fee and expense request (ECF No. 565), in any respect.

10. The Court's consideration of the Plan of Allocation is independent of the Court's consideration and approval of the Settlements, the fee award, and the expenses award.

IT IS SO ORDERED.

DATED: _____

HON. VALERIE E. CAPRONI
UNITED STATES DISTRICT JUDGE

EXHIBIT 10

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

IN RE:

COMMODITY EXCHANGE, INC., GOLD
FUTURES AND OPTIONS TRADING
LITIGATION

This Document Relates To All Actions

Case No. 14-MD-2548 (VEC)
14-MC-2548 (VEC)

Hon. Valerie E. Caproni

**[PROPOSED] FINAL JUDGMENT AND ORDER OF DISMISSAL
AS TO DEUTSCHE BANK AG**

This matter came before the Court for hearing pursuant to Plaintiffs' application for final approval of the settlement set forth in the Stipulation and Agreement of Settlement with Deutsche Bank AG, dated August 24, 2016 (the "Settlement Agreement"). The Court has considered all papers filed and proceedings held herein and is fully informed of these matters. For good cause shown, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that:

1. This Final Judgment and Order of Dismissal incorporates by reference the definitions in the Settlement Agreement, and all capitalized terms used, but not defined, herein shall have the same meanings as in the Settlement Agreement.

2. This Court has jurisdiction over the subject matter of the Action and over all parties to the Action, including all Settlement Class Members.

3. The notice provisions of the Class Action Fairness Act, 28 U.S.C. §1715, have been satisfied.

4. Based on the record before the Court, including the Preliminary Approval Order, the submissions in support of the settlement between Plaintiffs,¹ for themselves individually and on behalf of each Settlement Class Member in the Action, and Deutsche Bank AG (the "Settling Defendant" and together with Plaintiffs, the "Settling Parties"), and any objections and responses thereto, pursuant Rules 23(a) and 23(b)(3) of the Federal Rules of Civil Procedure the Court hereby certifies solely for settlement purposes the following Settlement Class:

All persons or entities who during the period from January 1, 2004 through June 30, 2013, either (A) sold any physical gold or financial or derivative instrument in which gold is the underlying reference asset, including, but not limited to, those who sold (i) gold bullion, gold bullion coins, gold bars, gold ingots or any form of physical gold, (ii) gold futures contracts in transactions conducted in whole or in part on COMEX or any other exchange operated in the United States, (iii) shares in Gold exchange-traded funds ("ETFs"), (iv) gold call options in transactions conducted over-the-counter or in whole or in part on COMEX or any other exchange operated in the United States; (v) gold spot, gold forwards or gold

¹ Plaintiffs are Compañía Minera Dayton SCM, Frank Flanagan, KPFF Investment, Inc., Duane Lewis, Larry Dean Lewis, Kevin Maher, Robert Marechal, Blanche McKennon, Kelly McKennon, Thomas Moran, J. Scott Nicholson, and David Windmiller.

swaps over-the-counter; or (B) bought gold put options in transactions conducted over-the-counter or in whole or in part on COMEX or on any other exchange operated in the United States.

Excluded from the Settlement Class are Defendants, their officers, directors, management, employees, affiliates, parents, subsidiaries, and co-conspirators, whether or not named in the Action, and the United States Government, and other governments. Also excluded is the Judge presiding over this action, his or her law clerks, spouse, and any person within the third degree of relationship living in the Judge's household and the spouse of such a person.

5. The requirements of Rules 23(a) and 23(b)(3) of the Federal Rules of Civil Procedure have been satisfied, as follows: (a) the members of the Settlement Class are so numerous that joinder of all members of the Settlement Class in the Action is impracticable; (b) questions of law and fact common to the Settlement Class predominate over any individual questions; (c) the claims of Plaintiffs are typical of the claims of the Settlement Class; (d) Plaintiffs and Lead Counsel have fairly and adequately represented and protected the interests of the Settlement Class; and (e) a class action is superior to other available methods for the fair and efficient adjudication of the controversy, considering (i) the interests of members of the Settlement Class in individually controlling the prosecution of separate actions; (ii) the extent and nature of any litigation concerning the controversy already begun by members of the Settlement Class; (iii) the desirability or undesirability of concentrating the litigation of these claims in this particular forum; and (iv) the likely difficulties in managing this Action as a class action.

6. The law firms of Quinn Emanuel Urquhart & Sullivan, LLP and Berger Montague PC are appointed, solely for settlement purposes, as Lead Counsel for the Settlement Class.

7. Plaintiffs Compañía Minera Dayton SCM, Frank Flanagan, KPFF Investment, Inc., Duane Lewis, Larry Dean Lewis, Kevin Maher, Robert Marechal, Blanche McKennon, Kelly McKennon, Thomas Moran, J. Scott Nicholson, and David Windmiller are appointed, solely for settlement purposes, as class representatives for the Settlement Class.

8. Pursuant to Rule 23(e) of the Federal Rules of Civil Procedure, the Court grants final approval of the Settlement set forth in the Settlement Agreement on the basis that the

settlement is fair, reasonable, and adequate as to, and in the best interests of, all Settlement Class Members, and is in compliance with all applicable requirements of the Federal Rules of Civil Procedure. In reaching this conclusion, the Court considered the factors set forth in *City of Detroit v. Grinnell Corp.*, 495 F.2d 448, 463 (2d Cir. 1974), *abrogated on other grounds by Goldberger v. Integrated Resources, Inc.*, 209 F.3d 43 (2d Cir. 2000). Moreover, the Court concludes that:

- a. The Settlement set forth in the Settlement Agreement was fairly and honestly negotiated by counsel with significant experience litigating antitrust class actions and other complex litigation and is the result of vigorous arm's-length negotiations undertaken in good faith;
- b. This Action is likely to involve contested and serious questions of law and fact, such that the value of an immediate monetary recovery outweighs the mere possibility of future relief after protracted and expensive litigation;
- c. Success in complex cases such as this one is inherently uncertain, and there is no guarantee that continued litigation would yield a superior result; and
- d. The Settlement Class Members' reaction to the Settlement set forth in the Settlement Agreement is entitled to great weight.

9. Except as to any individual claim of those Persons (identified in Exhibit 1 hereto) who have validly and timely requested exclusion from the Settlement Class ("Opt-Outs"), the Action and all claims contained therein, as well as all of the Released Claims, against Deutsche Bank AG by the Plaintiffs and Releasing Parties are dismissed with prejudice. The Settling Parties are to bear their own costs, except as otherwise provided in the Settlement Agreement and the orders of this Court.

10. The Opt-Outs identified in Exhibit 1 hereto have timely and validly requested exclusion from the Settlement Class and are excluded from the Settlement Class for all purposes, are not bound by this Final Judgment and Order of Dismissal, and may not make any claim or receive any benefit from the Settlement Agreement or any other settlement being jointly

administered with this Settlement Agreement from which members of Settlement Class are entitled to recover.

11. Upon the Effective Date: (i) Plaintiffs, each of the Settlement Class Members, and all Releasing Parties shall be deemed to have, and by operation of the Judgment shall have, fully, finally, and forever released, relinquished, and discharged against Deutsche Bank AG and the Released Parties (whether or not such Plaintiff, Settlement Class Member, or Releasing Party executes and delivers a Proof of Claim and Release form) any and all Released Claims (including, without limitation, Unknown Claims); and (ii) Plaintiffs, each of the Settlement Class Members, and all Releasing Parties, and anyone claiming through or on behalf of them, shall be permanently barred and enjoined from the commencement, assertion, institution, maintenance or prosecution of any of the Released Claims against Deutsche Bank AG or any Released Party in any action or other proceeding in any court of law or equity, arbitration tribunal, administrative forum, or forum of any kind. This Final Judgment and Order of Dismissal shall not affect in any way the right of Plaintiffs or Releasing Parties to pursue claims, if any, outside the scope of the Released Claims. Claims to enforce the terms of the Settlement Agreement are not released.

12. Upon the Effective Date, Deutsche Bank AG: (i) shall be deemed to have, and by operation of the Judgment and Order of Dismissal shall have, fully, finally, and forever released, relinquished, and discharged Plaintiffs, each and all of the Settlement Class Members, and Plaintiffs' Counsel from any and all Settling Defendant's Claims (including, without limitation, Unknown Claims); and (ii) shall be permanently barred and enjoined from the commencement, assertion, institution, maintenance or prosecution of Settling Defendant's Claims against Class Plaintiffs and Co-Lead Counsel in any action or other proceeding in any court of law or equity, arbitration tribunal, administrative forum, or forum of any kind. This Final Judgment and Order of Dismissal shall not affect in any way the right of Deutsche Bank AG to pursue claims, if any, outside the scope of the Released Defendants' Claims. Claims to enforce the terms of the Settlement Agreement are not released.

13. All rights of any Settlement Class Member against (i) any of the other Defendants currently named in the Action; (ii) any other Person formerly named in the Action; or (iii) any alleged co-conspirators or any other Person subsequently added or joined in the Action, other than Deutsche Bank AG or the Released Parties with respect to Released Claims are specifically reserved by Plaintiffs and the Settlement Class Members. To the extent permitted and/or authorized by law, all transactions relating to or arising from entry into, receipt of payments on, or terminations of any Gold Investments with Deutsche Bank AG, remain in the case against (i) any of the other Defendants currently named in the Action; (ii) any other Person formerly named in the Action; or (iii) any alleged co-conspirators or any other Person subsequently added or joined in the Action, other than Deutsche Bank AG and the Released Parties, as a potential basis for damage claims and may be part of any joint and several liability claims.

14. The mailing and distribution of the Notice to all members of the Settlement Class who could be identified through reasonable effort and the publication of the Summary Notice satisfy the requirements of Rule 23 of the Federal Rules of Civil Procedure and due process, constitute the best notice practicable under the circumstances, and constitute due and sufficient notice to all Persons entitled to notice.

15. Neither the Settlement Agreement nor the Settlement contained therein, nor any act performed or document executed pursuant to or in furtherance of the Settlement Agreement or the Settlement: (a) is or may be deemed to be or may be used as an admission or evidence of the validity of any Released Claim, or of any wrongdoing or liability of Deutsche Bank AG; or (b) is or may be deemed to be or may be used as an admission of, or evidence of, any fault or omission of Deutsche Bank AG in any civil, criminal, or administrative proceeding in any court, administrative agency, or other tribunal. The Settlement Agreement may be filed in an action to enforce or interpret the terms of the Settlement Agreement, the Settlement contained therein, and any other documents executed in connection with the performance of the Settlement embodied therein. Deutsche Bank AG may file the Settlement Agreement and/or this Final Judgment and Order of Dismissal in any action that may be brought against them in order to support a defense

or counterclaim based on the principles of *res judicata*, collateral estoppel, full faith and credit, release, good faith settlement, judgment bar, or reduction or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim.

16. Without affecting the finality of this Final Judgment and Order of Dismissal in any way, this Court retains continuing and exclusive jurisdiction over: (a) implementation of the Settlement set forth in the Settlement Agreement; (b) any award, distribution, or disposition of the Settlement Fund, including interest earned thereon; (c) hearing and determining applications for attorneys' fees, costs, expenses including expert fees, and incentive awards; and (d) all Settling Parties, Released Parties, and Releasing Parties for the purpose of construing, enforcing, and administering the Settlement Agreement.

17. In the event that the Settlement does not become effective in accordance with the terms of the Settlement Agreement, then this Final Order and Judgment of Dismissal shall be rendered null and void and shall be vacated. In such event, all orders entered and releases delivered in connection herewith shall be null and void, and the Settling Parties shall be deemed to have reverted to their respective status in the Action as of the Execution Date, and, except as otherwise expressly provided herein, the Settling Parties shall proceed in all respects as if the Settlement Agreement and any related orders had not been entered; provided, however, that in the event of termination of the Settlement, Paragraphs 3(b), 8(g), 10(b), 13(j), and 13(k) of the Settlement Agreement shall nonetheless survive and continue to be of effect and have binding force.

18. The Settling Parties are directed to consummate the Settlement according to the terms of the Settlement Agreement. Without further Court order, the Settling Parties may agree to reasonable extensions of time to carry out any of the provisions of the Settlement Agreement.

19. There is no just reason for delay in the entry of this Final Judgment and Order of Dismissal. The Clerk of the Court is respectfully directed to enter this Final Judgment and Order of Dismissal pursuant to Rule 54(b) of the Federal Rules of Civil Procedure immediately. The Clerk of Court is also respectfully directed to terminate Defendant Deutsche Bank AG.

20. The Court's consideration and approval of the Settlement is independent of the Court's consideration and approval of the Plan of Allocation, the fee award, and the expenses award.

IT IS SO ORDERED.

DATED: _____

HON. VALERIE E. CAPRONI
UNITED STATES DISTRICT JUDGE

EXHIBIT 1

List of Class Members That Have Opted Out

1. Agnew Gold Mining Company Pty Limited
2. Charles D. Nicolaus
3. Louise A. Dunham
4. St. Ives Gold Mining Company Pty Limited
5. Susan J. Levy
6. Wing Fung Precious Metals Limited

EXHIBIT 11

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

IN RE:

COMMODITY EXCHANGE, INC., GOLD
FUTURES AND OPTIONS TRADING
LITIGATION

This Document Relates To All Actions

Case No. 14-MD-2548 (VEC)
14-MC-2548 (VEC)

Hon. Valerie E. Caproni

**[PROPOSED] FINAL JUDGMENT AND ORDER OF DISMISSAL
AS TO HSBC BANK PLC**

This matter came before the Court for hearing pursuant to Plaintiffs' application for final approval of the settlement set forth in the Stipulation and Agreement of Settlement with HSBC Bank plc, dated November 10, 2020 (the "Settlement Agreement"). The Court has considered all papers filed and proceedings held herein and is fully informed of these matters. For good cause shown, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that:

1. This Final Judgment and Order of Dismissal incorporates by reference the definitions in the Settlement Agreement, and all capitalized terms used, but not defined, herein shall have the same meanings as in the Settlement Agreement.
2. This Court has jurisdiction over the subject matter of the Action and over all parties to the Action, including all Settlement Class Members.
3. The notice provisions of the Class Action Fairness Act, 28 U.S.C. §1715, have been satisfied.
4. Based on the record before the Court, including the Preliminary Approval Order, the submissions in support of the settlement between Plaintiffs,¹ for themselves individually and on behalf of each Settlement Class Member in the Action, and HSBC Bank plc (the "Settling Defendant" and together with Plaintiffs, the "Settling Parties"), and any objections and responses thereto, pursuant Rules 23(a) and 23(b)(3) of the Federal Rules of Civil Procedure the Court hereby certifies solely for settlement purposes the following Settlement Class:

All persons or entities who during the period from January 1, 2004 through June 30, 2013, either (A) sold any physical gold or financial or derivative instrument in which gold is the underlying reference asset, including, but not limited to, those who sold (i) gold bullion, gold bullion coins, gold bars, gold ingots or any form of physical gold, (ii) gold futures contracts in transactions conducted in whole or in part on COMEX or any other exchange operated in the United States, (iii) shares in Gold exchange-traded funds ("ETFs"), (iv) gold call options in transactions conducted over-the-counter or in whole or in part on COMEX or any other exchange operated in the United States; (v) gold spot, gold forwards or gold

¹ Plaintiffs are Compañía Minera Dayton SCM, Frank Flanagan, KPFF Investment, Inc., Duane Lewis, Larry Dean Lewis, Kevin Maher, Robert Marechal, Blanche McKennon, Kelly McKennon, Thomas Moran, J. Scott Nicholson, and David Windmiller.

swaps over-the-counter; or (B) bought gold put options in transactions conducted over-the-counter or in whole or in part on COMEX or on any other exchange operated in the United States.

Excluded from the Settlement Class are Defendants, their officers, directors, management, employees, affiliates, parents, subsidiaries, and co-conspirators, whether or not named in the Action, and the United States Government, and other governments. Also excluded is the Judge presiding over this action, his or her law clerks, spouse, and any person within the third degree of relationship living in the Judge's household and the spouse of such a person.

5. The requirements of Rules 23(a) and 23(b)(3) of the Federal Rules of Civil Procedure have been satisfied, as follows: (a) the members of the Settlement Class are so numerous that joinder of all members of the Settlement Class in the Action is impracticable; (b) questions of law and fact common to the Settlement Class predominate over any individual questions; (c) the claims of Plaintiffs are typical of the claims of the Settlement Class; (d) Plaintiffs and Lead Counsel have fairly and adequately represented and protected the interests of the Settlement Class; and (e) a class action is superior to other available methods for the fair and efficient adjudication of the controversy, considering (i) the interests of members of the Settlement Class in individually controlling the prosecution of separate actions; (ii) the extent and nature of any litigation concerning the controversy already begun by members of the Settlement Class; (iii) the desirability or undesirability of concentrating the litigation of these claims in this particular forum; and (iv) the likely difficulties in managing this Action as a class action.

6. The law firms of Quinn Emanuel Urquhart & Sullivan, LLP and Berger Montague P.C. are appointed, solely for settlement purposes, as Lead Counsel for the Settlement Class.

7. Plaintiffs Compañía Minera Dayton SCM, Frank Flanagan, KPFF Investment, Inc., Duane Lewis, Larry Dean Lewis, Kevin Maher, Robert Marechal, Blanche McKennon, Kelly McKennon, Thomas Moran, J. Scott Nicholson, and David Windmiller are appointed, solely for settlement purposes, as class representatives for the Settlement Class.

8. Pursuant to Rule 23(e) of the Federal Rules of Civil Procedure, the Court grants final approval of the Settlement set forth in the Settlement Agreement on the basis that the

settlement is fair, reasonable, and adequate as to, and in the best interests of, all Settlement Class Members, and is in compliance with all applicable requirements of the Federal Rules of Civil Procedure. In reaching this conclusion, the Court considered the factors set forth in *City of Detroit v. Grinnell Corp.*, 495 F.2d 448, 463 (2d Cir. 1974), *abrogated on other grounds by Goldberger v. Integrated Resources, Inc.*, 209 F.3d 43 (2d Cir. 2000). Moreover, the Court concludes that:

- a. The Settlement set forth in the Settlement Agreement was fairly and honestly negotiated by counsel with significant experience litigating antitrust class actions and other complex litigation and is the result of vigorous arm's-length negotiations undertaken in good faith;
- b. This Action is likely to involve contested and serious questions of law and fact, such that the value of an immediate monetary recovery outweighs the mere possibility of future relief after protracted and expensive litigation;
- c. Success in complex cases such as this one is inherently uncertain, and there is no guarantee that continued litigation would yield a superior result; and
- d. The Settlement Class Members' reaction to the Settlement set forth in the Settlement Agreement is entitled to great weight.

9. Except as to any individual claim of those Persons (identified in Exhibit 1 hereto) who have validly and timely requested exclusion from the Settlement Class ("Opt-Outs"), the Action and all claims contained therein, as well as all of the Released Claims, against HSBC Bank plc by the Plaintiffs and Releasing Parties are dismissed with prejudice. The Settling Parties are to bear their own costs, except as otherwise provided in the Settlement Agreement and the orders of this Court.

10. The Opt-Outs identified in Exhibit 1 hereto have timely and validly requested exclusion from the Settlement Class and are excluded from the Settlement Class for all purposes, are not bound by this Final Judgment and Order of Dismissal, and may not make any claim or receive any benefit from the Settlement Agreement or any other settlement being jointly

administered with this Settlement Agreement from which members of Settlement Class are entitled to recover.

11. Upon the Effective Date: (i) Plaintiffs, each of the Settlement Class Members, and all Releasing Parties shall be deemed to have, and by operation of the Judgment shall have, fully, finally, and forever released, relinquished, and discharged against HSBC Bank plc and the Released Parties (whether or not such Plaintiff, Settlement Class Member, or Releasing Party executes and delivers a Proof of Claim and Release form) any and all Released Claims (including, without limitation, Unknown Claims); and (ii) Plaintiffs, each of the Settlement Class Members, and all Releasing Parties, and anyone claiming through or on behalf of them, shall be permanently barred and enjoined from the commencement, assertion, institution, maintenance or prosecution of any of the Released Claims against HSBC Bank plc or any Released Party in any action or other proceeding in any court of law or equity, arbitration tribunal, administrative forum, or forum of any kind. This Final Judgment and Order of Dismissal shall not affect in any way the right of Plaintiffs or Releasing Parties to pursue claims, if any, outside the scope of the Released Claims. Claims to enforce the terms of the Settlement Agreement are not released.

12. Upon the Effective Date, HSBC Bank plc: (i) shall be deemed to have, and by operation of the Judgment and Order of Dismissal shall have, fully, finally, and forever released, relinquished, and discharged Plaintiffs, each and all of the Settlement Class Members, and Plaintiffs' Counsel from any and all Settling Defendant's Claims (including, without limitation, Unknown Claims); and (ii) shall be permanently barred and enjoined from the commencement, assertion, institution, maintenance or prosecution of Settling Defendant's Claims against Class Plaintiffs and Co-Lead Counsel in any action or other proceeding in any court of law or equity, arbitration tribunal, administrative forum, or forum of any kind. This Final Judgment and Order of Dismissal shall not affect in any way the right of HSBC Bank plc to pursue claims, if any, outside the scope of the Released Defendants' Claims. Claims to enforce the terms of the Settlement Agreement are not released.

13. All rights of any Settlement Class Member against (i) any of the other Defendants currently named in the Action; (ii) any other Person formerly named in the Action; or (iii) any alleged co-conspirators or any other Person subsequently added or joined in the Action, other than HSBC Bank plc or the Released Parties with respect to Released Claims are specifically reserved by Plaintiffs and the Settlement Class Members. To the extent permitted and/or authorized by law, all transactions relating to or arising from entry into, receipt of payments on, or terminations of any Gold Investments with HSBC Bank plc, remain in the case against (i) any of the other Defendants currently named in the Action; (ii) any other Person formerly named in the Action; or (iii) any alleged co-conspirators or any other Person subsequently added or joined in the Action, other than HSBC Bank plc and the Released Parties, as a potential basis for damage claims and may be part of any joint and several liability claims.

14. The mailing and distribution of the Notice to all members of the Settlement Class who could be identified through reasonable effort and the publication of the Summary Notice satisfy the requirements of Rule 23 of the Federal Rules of Civil Procedure and due process, constitute the best notice practicable under the circumstances, and constitute due and sufficient notice to all Persons entitled to notice.

15. Neither the Settlement Agreement nor the Settlement contained therein, nor any act performed or document executed pursuant to or in furtherance of the Settlement Agreement or the Settlement: (a) is or may be deemed to be or may be used as an admission or evidence of the validity of any Released Claim, or of any wrongdoing or liability of HSBC Bank plc; or (b) is or may be deemed to be or may be used as an admission of, or evidence of, any fault or omission of HSBC Bank plc in any civil, criminal, or administrative proceeding in any court, administrative agency, or other tribunal. The Settlement Agreement may be filed in an action to enforce or interpret the terms of the Settlement Agreement, the Settlement contained therein, and any other documents executed in connection with the performance of the Settlement embodied therein. HSBC Bank plc may file the Settlement Agreement and/or this Final Judgment and Order of Dismissal in any action that may be brought against them in order to support a defense

or counterclaim based on the principles of *res judicata*, collateral estoppel, full faith and credit, release, good faith settlement, judgment bar, or reduction or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim.

16. Without affecting the finality of this Final Judgment and Order of Dismissal in any way, this Court retains continuing and exclusive jurisdiction over: (a) implementation of the Settlement set forth in the Settlement Agreement; (b) any award, distribution, or disposition of the Settlement Fund, including interest earned thereon; (c) hearing and determining applications for attorneys' fees, costs, expenses including expert fees, and incentive awards; and (d) all Settling Parties, Released Parties, and Releasing Parties for the purpose of construing, enforcing, and administering the Settlement Agreement.

17. In the event that the Settlement does not become effective in accordance with the terms of the Settlement Agreement, then this Final Order and Judgment of Dismissal shall be rendered null and void and shall be vacated. In such event, all orders entered and releases delivered in connection herewith shall be null and void, and the Settling Parties shall be deemed to have reverted to their respective status in the Action as of the Execution Date, and, except as otherwise expressly provided herein, the Settling Parties shall proceed in all respects as if the Settlement Agreement and any related orders had not been entered; provided, however, that in the event of termination of the Settlement, Paragraphs 3(b), 8(g), 10(b), 13(i), and 13(j) of the Settlement Agreement shall nonetheless survive and continue to be of effect and have binding force.

18. The Settling Parties are directed to consummate the Settlement according to the terms of the Settlement Agreement. Without further Court order, the Settling Parties may agree to reasonable extensions of time to carry out any of the provisions of the Settlement Agreement.

19. There is no just reason for delay in the entry of this Final Judgment and Order of Dismissal. The Clerk of the Court is respectfully directed to enter this Final Judgment and Order of Dismissal pursuant to Rule 54(b) of the Federal Rules of Civil Procedure immediately. The Clerk of Court is also respectfully directed to terminate Defendant HSBC Bank plc.

20. The Court's consideration and approval of the Settlement is independent of the Court's consideration and approval of the Plan of Allocation, the fee award, and the expenses award.

IT IS SO ORDERED.

DATED: _____

HON. VALERIE E. CAPRONI
UNITED STATES DISTRICT JUDGE

EXHIBIT 1

List of Class Members That Have Opted Out

1. Agnew Gold Mining Company Pty Limited
2. Charles D. Nicolaus
3. Louise A. Dunham
4. St. Ives Gold Mining Company Pty Limited
5. Susan J. Levy
6. Wing Fung Precious Metals Limited