

**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 JUSTIN R. HUGHES
REGARDING STATUS OF CLAIMS ADMINISTRATION**

Pursuant to 28 U.S.C. § 1746, I, Justin R. Hughes, declare as follows:

1. I am a Senior Director at Kroll Settlement Administration LLC (“Kroll”)¹ f/k/a Heffler Claims Group, the Claims Administrator appointed in this case. This Declaration seeks to provide the Court with a summary of the current status of the administration, including work performed to date and work remaining to be completed in connection with the settlement agreement (the “Settlement Agreement”) entered into in the above-captioned case (the “Settlement”). This Declaration is based upon my personal knowledge as well as information provided to me by my associates and staff.

2. In connection with the original settlements, Kroll received over 83,000 Claim Forms. After there was a change to the plan of allocation to allow day-trades to be considered, and after the third settlement agreement was reached, Kroll received over 60,000 Claim Forms.

¹ Capitalized terms used herein and not otherwise defined have the meanings assigned to them in the Settlement Agreement (defined below).

3. Unfortunately, however, a review of the later-received Claim Forms found that many claimants failed to include the necessary information, particularly with respect to how the new forms related (if at all) to the prior ones. That is, despite the instructions given to Settlement Class Members, the Settlement Class Members did not always clearly indicate on the subsequent Claim Form whether they intended such Claim Form to replace a previous submission in its entirety, only in part, or not at all. As improperly categorizing the later-received Claim Forms would be consequential both to that particular Settlement Class Member but also others, a manual review was necessary. This required that Kroll search for potential duplicate filings and review numerous Claim Forms side-by-side. It also required that Kroll reach out to many class members, where appropriate, to confirm or clarify their intent.

4. These efforts, relatively unique due to the procedural path to approval of the Settlements here, have been in addition to Kroll's standard quality-control and auditing processes that have also been ongoing.

5. For example, the overwhelming majority of the claims submitted, both in terms of volume and value, came in by way of third-party bulk filers—that is, filers who are acting on behalf of many Settlement Class Members at once. For such claims, Kroll reviewed the files received to ensure the data was submitted in the appropriate format, and where there were issues, Kroll corresponded with the filer to cure identified issues. Where the appropriate prior claim numbers were provided, Kroll endeavored to search and review those claim numbers in order to ensure they were accurate. If there were any discrepancies, the filer was notified by email and an amended file was requested.

6. By way of another example, a number of submitted Claim Forms were missing information—that is, for example, there might be class member contact information, but no

amounts indicated in the tables. For such claims, Kroll sent out deficiency letters noting that the claims were not completed, and requested that the claimants submit the information necessary to process the claims. Claimants were provided a 20-day response deadline.

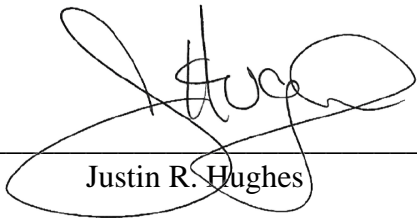
7. Additionally, in order to avoid unduly burdening all Settlement Class Members, as well as unduly increasing the administrative costs, under the approved plan of allocation and Claim Forms, Settlement Class Members were not required to submit supporting documentation. However, the Claim Forms indicated that documentation of proof—such as trade data—may be requested in certain instances, to help further substantiate the amounts indicated on the Claim Forms. In accordance with this provision, Kroll identified Settlement Class Members and claims filers who would be subject to these additional processes. Claimants were given 20 days to respond to such requests for documentation and Kroll reviewed and processed all documentation to ensure that claims contained all required information and that there were no longer any deficiencies.

8. While some of the above processes are still ongoing, the intake and audit processes are winding down. The primary “next step” is that Kroll intends to begin individually notifying third-party filers of the post-review status of their claims. Again, claims submitted by third-party filers make up the majority of the claims submitted, and their submissions were more complicated because they were filed in bulk to cover many Settlement Class Members at once. By giving bulk filers an opportunity to review the results of our work before distribution, disputes over how we interpreted their files can hopefully be identified and resolved prior to any distribution and without Court involvement. Thus, while these efforts will require additional time prior to distributions, we believe they will help us achieve a more complete and effective process.

9. While the third-party notice program is being undertaken, Kroll will continue to perform reviews and audits of Claim Forms, including for duplicate claims.

10. Based on our experience with this case to date, and our experience in administering other class action funds, Kroll anticipates that all of our processes will be completed, and thus we will be ready to actually distribute the funds when instructed to do so by Co-Lead Counsel, by around June 2023. However, given many unknown variables, including responses yet to be received to the deficiency letter process noted above, we cannot guarantee completion by a specific date at this time. We will, of course, continue to keep the Court apprised as events unfold.

I declare under the penalty of perjury, under the laws of the United States of America, that the foregoing is true and correct. Executed on February 8, 2023 in Oakland, California.



Justin R. Hughes