

Legal Notice

**To all persons in Canada who, between January 1, 2003 and December 31, 2013, entered into an FX Instrument\*, either directly or indirectly through an intermediary, and/or purchased or otherwise participated in an investment or equity fund, mutual fund, hedge fund, pension fund or any other investment vehicle that entered into an FX Instrument (“Settlement Class” or “Settlement Class Members”)**

**\*FX Instruments includes FX spot transactions, outright forwards, FX swaps, FX options, FX futures contracts, options on FX futures contracts, and other instruments traded in the FX Market.**

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## **A Settlement May Affect Your Rights.**

### **Overview:**

- You could be affected by class action lawsuits involving alleged manipulation of the foreign exchange market (the “**FX Market**”).
- A settlement has been reached in the litigation with Bank of Montreal, BMO Financial Corp., BMO Harris Bank N.A., and BMO Capital Markets Limited (“**BMO**”). The settlement, if approved and its conditions fulfilled, will settle, extinguish and bar all claims relating in any way to or arising out of the lawsuits against BMO.
- The Ontario and Quebec courts have certified (for settlement purposes only) class actions on behalf of the Settlement Class.
- Hearings will be held during which Class Counsel will seek the Courts’ approval of the settlement and their fees.
- The Courts have not decided whether the Defendants did anything wrong and the cases are currently proceeding against the remaining Defendants.

<b>YOUR OPTIONS</b>	
<b>Do Nothing:</b>	You do not have to do anything to stay in the class actions. The deadline to exclude yourself, sometimes referred to as “opting out”, has expired. If benefits, including settlement funds, become available for distribution in the future, notice will be disseminated.
<b>Object:</b>	If you want to object to the proposed settlement or class counsel’s fee request, you should do so by setting out your objection in writing addressed to Class Counsel by July 6, 2020. You can also attend the hearing. See below for more information.

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### BASIC INFORMATION

#### **1. Why was this notice issued?**

You are receiving this notice because a settlement was reached with BMO. This notice explains the settlement and your rights in respect of the settlement.

The Ontario and Quebec class actions were certified/authorized on behalf of Settlement Class Members (for settlement purposes only). This means that these lawsuits meet the requirements for a class action against BMO.

## 2. What is a class action?

In a class action one or more people called “representative plaintiffs” sue on behalf of people who have similar claims. All of these people with similar claims are called the “class” or “class members”. The court resolves the issues for all class members, except those who removed themselves from the class.

## 3. What are these Proceedings about?

Beginning at least as early as 2003 and continuing through 2013, it is alleged that the Defendants conspired with each other to fix prices in the FX Market. It is alleged that the Defendants communicated directly with each other to fix spot prices, control or manipulate FX benchmark rates, and exchange key confidential customer information to trigger client stop loss orders and limit orders.

It is alleged that the Defendants’ conspiracy affected dozens of currency pairs, including the U.S. and Canadian dollar (USD/CAD) currency pair, which is one of the world’s highest volume trading currency pairs. Due to the importance of spot prices, it is alleged that the Defendants’ alleged conspiracy impacted all manner of FX instruments, including those trading both over-the-counter and on exchanges. None of these allegations have been proven in court, and the Defendants have not admitted liability.

Class actions related to the alleged conduct were commenced in Ontario (*Mancinelli, et al v. Royal Bank of Canada, et al*, Court File No. CV-15-536174CP) and Quebec (*Béland c. Banque Royale du Canada et als.*, No de Cour : 200-06-000189-152) (collectively, the “**Proceedings**”).

In the Proceedings, the Plaintiffs are asking for money or other benefits for the Class. They are also asking for lawyers’ fees and costs, plus interest.

## 4. Who are the parties in the Proceedings?

The Plaintiffs in the Ontario action are: Joseph S. Mancinelli, Carmen Principato, Douglas Serroul, Luigi Carrozzi, Manuel Bastos, and Jack Oliveira in their capacity as The Trustees of the Labourers’ Pension Fund of Central and Eastern Canada and Christopher Staines. The Plaintiff in the Quebec action is Christine Béland.

The Defendants in the Proceedings are as follows:

- Bank of America Corporation, Bank of America, N.A., Bank of America Canada, Bank of America National Association (collectively, “Bank of America”)
- Bank of Montreal, BMO Financial Corp., BMO Harris Bank N.A., BMO Capital Markets Limited (collectively, “BMO”)
- Bank of Tokyo Mitsubishi UFJ Ltd., Bank of Tokyo-Mitsubishi UFJ (Canada) (collectively, “Bank of Tokyo”)
- Barclays Bank PLC, Barclays Capital Inc., Barclays Capital Canada Inc. (collectively, “Barclays”)

- BNP Paribas Group, BNP Paribas North America, Inc., BNP Paribas (Canada), BNP Paribas (collectively, “BNP”)
- Citigroup, Inc., Citibank, N.A., Citibank Canada, Citigroup Global Markets Canada Inc. (collectively, “Citigroup”)
- Credit Suisse Group AG, Credit Suisse Securities (USA) LLC, Credit Suisse AG, Credit Suisse Securities (Canada) Inc (collectively, “Credit Suisse”)
- Deutsche Bank AG
- The Goldman Sachs Group, Inc., Goldman, Sachs & Co., Goldman Sachs Canada Inc. (collectively, “Goldman Sachs”)
- HSBC Holdings PLC, HSBC Bank PLC, HSBC North America Holdings Inc., HSBC Bank USA, N.A., HSBC Bank Canada (collectively, “HSBC”)
- JPMorgan Chase & Co., J.P. Morgan Bank Canada, J.P. Morgan Canada, JPMorgan Chase Bank, National Association (collectively, “JPMorgan”)
- Morgan Stanley, Morgan Stanley Canada Limited (collectively, “Morgan Stanley”)
- Royal Bank of Canada, RBC Capital Markets LLC (collectively, “RBC”)
- The Royal Bank of Scotland Group plc, RBS Securities Inc., The Royal Bank of Scotland N.V., The Royal Bank of Scotland plc (collectively, “RBS”)
- Société Générale S.A., Société Générale (Canada), Société Générale (collectively, “Bank of America”)
- Standard Chartered plc (“Standard Chartered”)
- Toronto Dominion Bank, TD Securities, TD Bank USA, N.A., T.D. Group Holdings, TD Bank N.A. (collectively, “TD”)
- UBS AG, UBS Securities LLC, UBS Bank (Canada) (collectively, “UBS”)

#### **5. What are the settlement benefits?**

A settlement has been reached with BMO for \$250,000 (the “**Settlement Agreement**”). The Settlement Agreement, if approved and its conditions fulfilled, will settle, extinguish and bar all claims relating in any way to or arising out of the Proceedings against BMO.

The settlement is a compromise of disputed claims and BMO does not admit any wrongdoing or liability.

#### **6. Who is affected by this settlement?**

This settlement applies to all members of the Settlement Class. The Settlement Class is: all persons in Canada who, between January 1, 2003 and December 31, 2013, entered into an FX Instrument either directly or indirectly through an intermediary, and/or purchased or otherwise participated in an investment or equity fund, mutual fund, hedge fund, pension fund or any other investment vehicle that entered into an FX Instrument and you did not opt-out of the lawsuit on or before December 5, 2016. Excluded from the Settlement Class are the defendants, their parent

companies, subsidiaries, and affiliates; provided, however, that Investment Vehicles are not excluded from the class.

#### **7. Have there been other settlements?**

Previous settlements were reached with UBS, BNP, Bank of America, Goldman Sachs, JPMorgan, Citigroup, Barclays, HSBC, Royal Bank of Scotland, Standard Chartered, Bank of Tokyo, Société Générale, and Morgan Stanley. The settlements total over \$109 million.

#### **8. Is there any money available now?**

The Ontario and Quebec Courts approved a method for disseminating the settlement funds achieved pursuant to the previous settlements. The deadline to apply for settlement benefits expired on January 15, 2020. The Claims Administrator is currently processing claims.

No further distribution is contemplated at this time. The BMO settlement amount (less court-approved fees and disbursements) will be paid into an interest-bearing account for the benefit of the Settlement Class. If any additional benefits (including settlement funds) become available to the Class, further notice will be provided. Important information about the case will be posted on the website for the lawyers, <https://kmlaw.ca/cases/forex-canadian-class-action/>, as it becomes available.

#### **9. What is the status of the contested litigation?**

On April 14, 2020, Justice Perell certified the Ontario action as class proceeding against the Defendants who have not yet settled. The certified Class includes: all persons in Canada who, between January 1, 2003 and December 31, 2013, entered into an FX Instrument transaction with a named Defendant's salesperson, either directly or through an intermediary.

### **YOUR OPTIONS**

#### **10. What happens if I do nothing at all?**

You do not have to do anything to stay in the class action. The opt-out period has expired. If you opted out, you cannot rejoin the class action. If you did not opt-out, you will be legally bound by all orders and judgments of the Court, and you will not be able to sue the Defendants about the legal claims in this case.

A further notice will be disseminated if any benefits (including a further distribution of settlement funds), become available for distribution.

#### **11. When will the settlement be approved?**

Hearings will be held during which Class Counsel will ask the Courts to approve of the Settlement Agreement and approve legal fees of 25% of the settlement funds plus disbursements

and applicable taxes (“Approval Hearings”). Any approved legal fees or disbursements will be paid out of the settlement funds.

The hearing before the Ontario Superior Court of Justice will be held on July 16, 2020 at 10am (ET) by videoconference. The hearing before the Quebec Superior Court will be held on August 7, 2020 at 10am at the Quebec City Courthouse, 300 Boulevard Jean Lesage, Quebec City, Quebec.

#### **12. What if I don’t agree with the settlement or class counsel’s fee request?**

If you want to object, you should do so by setting out your objection in writing addressed to Class Counsel at Koskie Minsky LLP, 20 Queen St West, Suite 900, Box 52, Toronto, Ontario, M5H 3R3 or by email at [fxclassaction@kmlaw.ca](mailto:fxclassaction@kmlaw.ca). The deadline to object is July 6, 2020.

#### **13. Can I exclude myself from the Proceedings?**

No, the deadline to exclude yourself – sometimes referred to as “opting out” – has passed.

### **THE LAWYERS REPRESENTING YOU**

#### **14. Do I have a lawyer in the case?**

The law firms of Sotos LLP, Koskie Minsky LLP, Siskinds LLP, and Camp Fiorante Matthews Mogerman represent Settlement Class Members in the Ontario action. Siskinds Desmeules, s.e.n.c.r.l. represents Settlement Class Members in the Quebec action (collectively, these firms are referred to as “**Class Counsel**”).

#### **15. How will the lawyers be paid?**

You will not have to pay any of the fees and expenses of Class Counsel. If the Court grants their request, Class Counsel’s fees and expenses will be deducted from money obtained for the Class or paid separately by the Defendants.

### **TRIAL**

#### **16. How and when will the Court decide who is right?**

If these cases are not dismissed or settled, the Plaintiffs will have to prove their claims against the remaining Defendants at a trial. The trial would be in Toronto, Ontario, in one case and in Quebec City, Quebec, in the other one. During the trials, the court will hear all of the evidence, so that a decision can be reached about whether the Plaintiffs or the Defendants are right about the claims in the lawsuits. There is no guarantee that the Plaintiffs will win any money or benefits for the Class at trials.

## **GETTING MORE INFORMATION**

### **17. How do I get more information?**

You can get more information about this case:

**Class Counsel**

**Koskie Minsky LLP**

Toll Free Hotline: 1-855-535-2624

Email: [fxclassaction@kmlaw.ca](mailto:fxclassaction@kmlaw.ca)

20 Queen St West

Suite 900, Box 52

Toronto, Ontario

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Distribution of this notice was authorized by the Ontario Superior Court of Justice and the Quebec Superior Court.

This notice contains a summary of some of the terms of the settlement. If there is a conflict between the provisions of this notice and the settlement, the terms of the settlement agreement will prevail.