

1 Joseph M. Alioto (SBN 42680)
2 Jamie L. Miller (SBN 271452)
3 Angelina Alioto-Grace (SBN 206899)
4 ALIOTO LAW FIRM
5 One Sansome Street, 35th Floor
6 San Francisco, CA 94104
7 Telephone: (415) 434-8900
8 Facsimile: (415) 434-9200
9 Email: jmalimoto@aliotolaw.com
10 jmiller@aliotolaw.com

11 [ADDITIONAL COUNSEL LISTED ON LAST PAGE]

12 **UNITED STATES DISTRICT COURT**
13 **NORTHERN DISTRICT OF CALIFORNIA**

14 LISA MCCARTHY, MARY KATHERINE)
15 ARCELL, KEITH DEAN BRADT, JOSE)
16 BRITO, JAN-MARIE BROWN, ROSEMARY)
17 D'AUGUSTA, BRENDA DAVIS, PAMELA)
18 FAUST, CAROLYN FJORD, DONALD C.)
19 FREELAND, DONNA FRYE, GABRIEL)
20 GARAVANIAN, HARRY GARAVANIAN,)
21 YVONNE JOCELYN GARDNER, VALARIE)
22 JOLLY, MICHAEL MALANEY, LENARD)
23 MARAZZO, TIMOTHY NIEBOER,)
24 DEBORAH PULFER, BILL RUBINSOHN,)
25 SONDRRA RUSSELL, JUNE STANSBURY,)
26 CLYDE DUANE STENSRUD, GARY)
27 TALEWSKY, DIANA LYNN ULTICAN,)
28 PAMELA WARD, CHRISTINE M.)
WHALEN,)

Plaintiffs,

v.

INTERCONTINENTAL EXCHANGE, INC.,)
INTERCONTINENTAL EXCHANGE)
HOLDINGS, INC., ICE BENCHMARK)
ADMINISTRATION LIMITED, ICE DATA)
SERVICES, INC., ICE PRICING AND)
REFERENCE DATA LLC, BANK OF)
AMERICA, N.A., BANK OF AMERICA)
CORPORATION, BARCLAYS BANK, PLC,)
BARCLAYS CAPITAL, INC., CITIBANK,)
N.A., CITIGROUP, INC., CITIGROUP)

CASE NO.:

**COMPLAINT FOR
PERMANENT
INJUNCTION AND FOR
DAMAGES AGAINST
DEFENDANTS' VIOLATIONS
OF §§ 1 AND 2 OF THE
SHERMAN ANTITRUST ACT,
15 U.S.C. §§ 1, 2**

JURY TRIAL DEMANDED

1 GLOBAL MARKETS, INC.,)
 2 COÖPERATIEVE RABOBANK U.A.,)
 3 CREDIT SUISSE GROUP AG, CREDIT)
 4 SUISSE AG, CREDIT SUISSE SECURITIES)
 5 (USA) LLC, DEUTSCHE BANK AG,)
 6 DEUTSCHE BANK SECURITIES INC.,)
 7 HSBC HOLDINGS PLC, HSBC BANK PLC,)
 8 HSBC BANK USA, N.A., HSBC)
 9 SECURITIES (USA) INC., JPMORGAN)
 10 CHASE & CO., JPMORGAN CHASE BANK,)
 11 N.A., J.P. MORGAN SECURITIES LLC,)
 12 LLOYDS BANK PLC, LLOYDS)
 13 SECURITIES INC., MUFG BANK, LTD.,)
 14 THE BANK OF TOKYO-MITSUBISHI UFJ)
 15 LTD., MITSUBISHI UFJ FINANCIAL)
 16 GROUP INC., MUFG SECURITIES)
 17 AMERICAS INC., ROYAL BANK OF)
 18 SCOTLAND GROUP PLC, ROYAL BANK)
 19 OF SCOTLAND PLC, NATIONAL)
 20 WESTMINSTER BANK PLC, NATWEST)
 21 MARKETS SECURITIES INC., ROYAL)
 22 BANK OF CANADA, RBC CAPITAL)
 23 MARKETS, LLC, SUMITOMO MITSUI)
 24 BANKING CORPORATION, SUMITOMO)
 25 MITSUI FINANCIAL GROUP INC.,)
 26 SUMITOMO MITSUI BANKING)
 27 CORPORATION EUROPE LTD., SMBC)
 28 CAPITAL MARKETS, INC., THE)
 NORINCHUKIN BANK, UBS GROUP AG,)
 UBS AG, AND UBS SECURITIES LLC,)

Defendants.

21 Plaintiffs Lisa McCarthy, *et al.*, are borrowers and consumers of loans and credit cards
 22 with variable interest rates, including those incorporating the USD LIBOR benchmark rate
 23 fixed by Defendants’ unlawful agreement, combination, and/or conspiracy, in violation of §§ 1
 24 and 2 of the Sherman Antitrust Act, 15 U.S.C. §§ 1, 2. Plaintiffs hereby seek injunctive relief
 25 under § 16 of the Clayton Act, 15 U.S.C. § 26 to prohibit Defendants’ ongoing violations of
 26 the antitrust laws and seek damages under § 4 of the Clayton Act, 15 U.S.C. § 15, caused by
 27 reason of Defendants’ unlawful conduct. Plaintiffs complain and allege as follows:
 28

1 **INTRODUCTION**

2 Since the mid-1980s and continued up to and including the filing of this Complaint,
3 Defendants have been and are members of a price-fixing cartel designed to eliminate price
4 competition between and among themselves and co-conspirators to fix the intra bank interest
5 rate used as the basis for loans to consumers, including, inter alia, mortgages, student loans,
6 credit cards, auto loans, lines of credit, contracts, and all varieties of financial instruments.
7

8 This price-fixed rate is commonly accepted as “the world’s most important number,”
9 used by an estimated US \$350 trillion (\$350,000,000,000,000.00) of outstanding contracts in
10 maturities ranging from overnight to more than 30 years.
11

12 The formula to fix the rate agreed to by the Defendant banks and co-conspirators, and
13 their Defendant agents charged with calculating the agreed price-fixed interest rate, is simple
14 in its arithmetic and devastating in its implementation: (1) the fifteen Defendant banks submit
15 their proposals of what the interest rate should be to the Defendant ICE US LIBOR; (2) the
16 Defendant ICE US LIBOR excludes the four highest and four lowest; and then (3) averages
17 the remaining eight. The result of this agreed “trim average” is the agreed interest rate to be
18 charged.
19

20 The Defendant banks agreed to this “trim average” formula, the resultant rate, and
21 the implementation of it in their consumer loans. The consumers paid the fixed-price as the
22 base of their loans and/or are substantially threatened with injury or damage by reason
23 of the continued use of the price-fixed rate.

24 The price-fixed rate used by the Defendant banks and their co-conspirators as the base
25 in their consumer loans is a *per se* violation of Sections 1 and 2 of the Sherman Antitrust Act.
26 The consumer Plaintiffs are injured and damaged and/or substantially threatened with injury
27

1 and damage, and are authorized to bring this suit pursuant to Sections 4 and 16 of the Clayton
2 Antitrust Act.

3 The price-fixing agreement between and among the Defendant banks and co-
4 conspirators, and the continued use and enforcement of the price-fixing agreement, should and
5 must be permanently enjoined. No consumer of any consumer loan based in whole or in part,
6 or in any way infected or affected by the price-fixed interest rate, should be required to pay,
7 directly or indirectly, the price-fixed USD LIBOR interest rate.
8

9 The Plaintiffs pray for, and respectfully demand the immediate entry of a permanent
10 injunction voiding the Defendant banks' price-fixing agreement and any enforcement of it,
11 directly or indirectly, and seek damages caused by reason of Defendants' unlawful
12 combination or conspiracy.

13 **JURISDICTION**

14
15 1. This action is brought under Sections 4 and 16 of the Clayton Antitrust Act, 15
16 U.S.C. §§ 15, 26, for damages and to prohibit Defendants' ongoing violations of §§ 1 and 2 of
17 the Sherman Antitrust Act, 15 U.S.C. §§ 1, 2, caused by reason of Defendants unlawful
18 agreement to fix the USD LIBOR rate, and their unlawful conspiracy to monopolize by
19 agreeing to set USD LIBOR. This Court has subject matter jurisdiction of the federal antitrust
20 claims asserted in this action under Sections 4 and 16 of the Clayton Antitrust Act, 15 U.S.C.
21 §§ 15, 26, and Title 28 United States Code Sections 1331 and 1337.
22

23 2. Defendants' conspiracy and conduct was within the flow of, was intended to,
24 and did, in fact, have a substantial effect on the interstate commerce of the United States.
25 During the relevant time period, Defendants used the instrumentalities of interstate commerce,
26 including interstate wires, in furtherance of their illegal scheme. In addition, because
27 Defendants transact business in this judicial district, venue is proper pursuant to 15 U.S.C.
28

1 §§15, 22 and 26, and 28 U.S.C. § 1391.

2 **THE PLAINTIFFS**

3 3. Each Plaintiff named herein below is an individual and a citizen of the state
4 listed as the address for each such Plaintiff, and in the four years prior to the filing of this
5 action, each Plaintiff was a borrower/consumer of a consumer loan or credit card with a
6 variable interest rate:
7

8 Mary Katherine Arcell, New Orleans, LA

9 Keith Dean Bradt, Reno, NV

10 Jose Brito, Reno, NV

11 Jan-Marie Brown, Reno, NV

12 Rosemary D'Augusta, San Francisco, CA

13 Brenda Davis, Dallas, TX

14 Pamela Faust, Cincinnati, OH

15 Carolyn Fjord, Sacramento, CA

16 Donald C. Freeland, Cincinnati, OH

17 Donna Frye, Colorado Springs, CO

18 Gabriel Garavanian, Boston, MA

19 Harry Garavanian, Boston, MA

20 Yvonne Jocelyn Gardner, Colorado Springs, CO

21 Valarie Jolly, Dallas, TX

22 Michael Malaney, Grand Rapids, MI

23 Lenard Marazzo, Reno, NV

24 Lisa McCarthy, Naples, FL

25 Timothy Nieboer, Kalamazoo, MI

26 Deborah Pulfer, Sidney, OH

1 Bill Rubinsohn, Philadelphia, PA

2 Sondra Russell, Waco, TX

3 June Stansbury, Reno, NV

4 Clyde Duane Stensrud, Seattle, WA

5 Gary Talewsky, Boston, MA

6 Diana Lynn Ultican, Seattle, WA

7 Pamela Ward, Holmes Beach, FL

8 Christine M Whalen, New Orleans, LA

9 4. Because Plaintiffs are consumers of variable interest rate loans, they are
10 threatened with harm and damage in that USD LIBOR is an unlawful rate regularly utilized as
11 a component of the pricing in variable interest rate consumer loans by the Defendants and
12 their co-conspirators. Further, Plaintiffs have been damaged and are threatened with damage
13 in that they have paid and will pay anticompetitive rates in the future for variable interest rate
14 loans, a component of which was unlawfully fixed by Defendants' unlawful combination
15 and/or conspiracy.
16

17 5. More specifically, numerous Plaintiffs, including Plaintiffs Lisa McCarthy,
18 Jose Brito, Jan-Marie Brown, Brenda Davis, Gabriel Garavanian, Harry Garavanian, Bill
19 Rubinsohn, Sandy Russell, Gary Talewsky, are consumers of credit cards issued by unnamed
20 co-conspirator Capital One, which lists the 3-month and 1-month LIBOR rates in its
21 statements as possible components in disclosing variable interest rates to be charged to its
22 customers.
23

24 6. Plaintiff Yvonne Jocelyn Gardner is a consumer of a variable interest rate
25 mortgage from Defendant Bank of America.
26

THE DEFENDANTS

1
2 7. Defendant Intercontinental Exchange Inc. is a Delaware corporation with its
3 principal place of business at 5660 New Northside Drive, Atlanta, Georgia 30328, registered
4 to do business in California.

5 8. Defendant Intercontinental Exchange Holdings, Inc. is a Delaware corporation
6 with its principal place of business at 5660 New Northside Drive, Atlanta, Georgia 30328,
7 registered to do business in California.

8 9. Defendant ICE Benchmark Administration Limited (f/k/a NYSE Euronext Rate
9 Administration Limited, hereinafter “IBA”) is a UK company with a registered address of
10 Milton Gate, 60 Chiswell Street, London, EC1Y 4SA, United Kingdom. NYSE Euronext Rate
11 Administration Limited was renamed ICE Benchmark Administration Limited after
12 Intercontinental Exchange, Inc.’s acquisition of NYSE Euronext in 2013. After the acquisition,
13 four of NYSE Euronext’s directors joined ICE’s 14-member board, and the resulting company
14 is dual-headquartered in Atlanta and New York.

15 10. Defendant ICE Data Services, Inc. (“ICE Data Services”) is a Delaware
16 corporation registered to do business in California, with a principal place of business located
17 at 100 Church Street, 11th Floor, New York, New York 10007. ICE Data Services owns and
18 operates the ICE Report Center, which houses USD ICE LIBOR data and with which
19 registration is required to access certain USD ICE LIBOR rate and submission data from ICE.

20 11. Defendant ICE Pricing and Reference Data LLC (“ICE Pricing and Reference
21 Data”) is a Delaware company registered to do business in California with a principal place of
22 business located at 5660 New Northside Drive, Atlanta, Georgia 30328.

23 12. The ICE entities (hereinafter, the ICE entities shall be collectively referred to as
24 “ICE”, when not referenced individually) and its other unnamed subsidiaries and affiliates
25

1 share a unity of corporate interest and operate as a single enterprise in furtherance of the
2 combination and conspiracy alleged herein.

3 13. Each Bank Defendant named below is one of the Panel Banks contributing rate
4 data to ICE for calculation of the USD LIBOR benchmark rate.

5 14. Defendant Bank of America, N.A. is a national banking association, and
6 Defendant Bank of America Corporation, a Delaware corporation (collectively, “Bank of
7 America”). Both entities headquarters are located at 100 North Tryon Street, Charlotte, North
8 Carolina 28202 and are registered to do business in California. Bank of America and its other
9 unnamed subsidiaries and affiliates share a unity of corporate interest and operate as a single
10 enterprise in furtherance of the combination and conspiracy alleged herein.

11 15. Defendant Barclays Bank, plc, is a U.K. public limited company with its
12 principal place of business at 1 Churchill Place, London E14 5H, United Kingdom, and
13 operates a New York branch at 745 Seventh Avenue, New York, New York 10019, and
14 Defendant Barclays Capital Inc. is a Connecticut corporation with its principal place of
15 business at 745 Seventh Avenue, New York, New York 10019 (collectively, “Barclays”).
16 Barclays and its other unnamed subsidiaries and affiliates share a unity of corporate interest
17 and operate as a single enterprise in furtherance of the combination and conspiracy alleged
18 herein.

19 20 21 22 23 24 25 26 27 28
16. Defendant Citibank, N.A. is a federally chartered national banking Association,
and Defendant Citigroup Inc. is a Delaware corporation. Both entities are headquartered at 399
Park Avenue, New York, New York 10022. Defendant Citigroup Global Markets Inc. is a
Delaware corporation headquartered at 390-388 Greenwich Street, New York, New York
10013 and registered to do business in California (hereinafter, the Citibank/Citigroup entities
shall be referred to collectively as “Citibank” if not referred to individually). Citibank and its

1 other unnamed subsidiaries and affiliates share a unity of corporate interest and operate as a
2 single enterprise in furtherance of the combination and conspiracy alleged herein.

3 17. Defendant Coöperatieve Rabobank U.A. (“Rabobank”) is a bank organized
4 under the laws of Netherlands with its principal place of business at Croeselaan 18, 3521 CB
5 Utrecht, Netherlands, and operates a New York branch at 245 Park Avenue, 37th Floor, New
6 York, New York 10167. Rabobank and its other unnamed subsidiaries and affiliates share a
7 unity of corporate interest and operate as a single enterprise in furtherance of the combination
8 and conspiracy alleged herein.

10 18. Defendant Credit Suisse Group AG is a Swiss aktiengesellschaft (“AG”) with
11 its principal place of business at 8 Paradeplatz, 8001 Zurich, Switzerland. Defendant Credit
12 Suisse AG is a Swiss AG with its principal place of business at Ueltibergstrasse 231, 8070
13 Zurich, Switzerland. Credit Suisse AG is registered to do business in California and it
14 operates a New York branch located at Eleven Madison Avenue, 24th Floor, New York, New
15 York 10010. Defendant Credit Suisse Securities (USA) LLC is a Delaware limited liability
16 company. It is registered to do business in California, with its principal place of business at
17 Eleven Madison Avenue, 24th Floor, New York, New York 10010 (hereinafter, the Credit
18 Suisse entities will be referred to collectively as “Credit Suisse”). Credit Suisse and its other
19 unnamed subsidiaries and affiliates share a unity of corporate interest and operate as a single
20 enterprise in furtherance of the combination and conspiracy alleged herein.

23 19. Defendant Deutsche Bank AG is a German aktiengesellschaft with its principal
24 place of business at Taunusanlage 12, Frankfurt, 60325, Germany. Defendant Deutsche Bank
25 AG is registered to do business in California, and it operates a San Francisco branch at 101
26 California Street, San Francisco, CA 94111. Defendant Deutsche Bank Securities Inc.
27 (“DBSI”) is a Delaware corporation registered to do business in California, with its principal
28

1 place of business at 60 Wall Street, 4th Floor, New York, New York 10005 (hereinafter, the
2 Deutsche Bank entities shall be referred to collectively as “Deutsche Bank” when not
3 referenced individually). Deutsche Bank and its other unnamed subsidiaries and affiliates
4 share a unity of corporate interest and operate as a single enterprise in furtherance of the
5 combination and conspiracy alleged herein.

6
7 20. Defendant HSBC Holdings plc is a British public limited company with its
8 principal place of business at 8 Canada Square, London, E14 5HQ, United Kingdom.
9 Defendant HSBC Bank plc is a British public limited company with its principal place of
10 business at 8 Canada Square, London, E14 5HQ, United Kingdom. Defendant HSBC Bank
11 USA, N.A. is a national banking association headquartered at HSBC Tower, 452 Fifth
12 Avenue, New York, New York 10018 and registered to do business in California. Defendant
13 HSBC Securities (USA) Inc. is a Delaware corporation registered to do business in California,
14 with its principal place of business at HSBC Tower, 452 Fifth Avenue, New York, New York
15 10018 (hereinafter, the HSBC entities shall be referred to collectively as “HSBC” if not
16 referenced individually). HSBC and its other unnamed subsidiaries and affiliates share a unity
17 of corporate interest and operate as a single enterprise in furtherance of the combination and
18 conspiracy alleged herein.

19
20 21. Defendant JPMorgan Chase & Co. is a Delaware corporation with its principal
21 place of business at 270 Park Avenue, New York, New York 10017. Defendant JPMorgan
22 Chase Bank, N.A. is a federally-chartered national banking association registered to do
23 business in California, headquartered at 270 Park Avenue, New York, New York 10017.
24 Defendant J.P. Morgan Securities LLC is a Delaware limited liability company registered to
25 do business in California, with its principal place of business at 277 Park Avenue, New York,
26 New York 11072 (hereinafter, the JPMorgan Chase entities shall be referred to collectively as
27
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1 “JP Morgan” if not referenced individually). JP Morgan and its other unnamed subsidiaries
2 and affiliates share a unity of corporate interest and operate as a single enterprise in
3 furtherance of the combination and conspiracy alleged herein.

4 22. Defendant Lloyds Bank plc is a British public limited company with registered
5 offices at 25 Gresham Street, London EC2V 7HN, United Kingdom, and it operates a New
6 York branch at 1095 Sixth Avenue, New York, New York 10036. Defendant Lloyds
7 Securities Inc. is a Delaware corporation headquartered at 1095 Sixth Avenue, New York,
8 New York 10036 (hereinafter, the Lloyds entities shall be referred to collectively as “Lloyds”
9 if not referenced individually). Lloyds and its other unnamed subsidiaries and affiliates share
10 a unity of corporate interest and operate as a single enterprise in furtherance of the
11 combination and conspiracy alleged herein.

12 23. Defendant MUFG Bank, Ltd. is a bank organized under the law of Japan with
13 its principal place of business at 7-1, Marunouchi 2-chome Chiyoda-ku, Tokyo 100-8388,
14 Japan. MUFG Bank, LTD is registered to do business in California and operates a New York
15 branch at 1251 Sixth Avenue, New York, New York 10020 and a San Francisco Branch at 350
16 California Street, 1st Floor, San Francisco, CA 94104. Defendant The Bank of Tokyo-
17 Mitsubishi UFJ Ltd. is a bank organized under the laws of Japan with its principal place of
18 business at 7-1, Marunouchi 2-chome Chiyoda-ku, Tokyo 100-8388, Japan and which
19 operates a New York branch at 1251 Sixth Avenue, New York, New York 10020. Defendant
20 Mitsubishi UFJ Financial Group Inc. is a Japanese corporation with its principal place of
21 business at 7-1, Marunouchi 2-chome Chiyoda-ku, Tokyo 100-8388, Japan. Defendant MUFG
22 Securities Americas Inc. is a Delaware corporation registered to do business in California,
23 with its principal place of business at 1221 Avenue of the Americas, 6th Floor, New York,
24 New York 10020 (hereinafter, all four MUFG entities shall be referred to collectively as
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1 “MUFG” if not referenced individually). MUFG and its other unnamed subsidiaries and
2 affiliates share a unity of corporate interest and operate as a single enterprise in furtherance of
3 the combination and conspiracy alleged herein.

4 24. Defendant Royal Bank of Scotland Group plc is a United Kingdom public
5 limited company with its principal place of business at 1000 Gogarburn, Edinburgh, EH12
6 1HQ, Scotland. Defendant Royal Bank of Scotland plc is a United Kingdom public limited
7 company with its principal place of business located at 36 St. Andrew Square, Edinburgh,
8 EH2 2YB, Scotland, and it operates a Connecticut branch located at 600 Washington
9 Boulevard, Stamford, Connecticut 06901. Defendant National Westminster Bank plc is a U.K.
10 public limited company with its principal place of business at 135 Bishopsgate, London,
11 EC2M 3UR, United Kingdom. Natwest is a member of the USD LIBOR Panel. Defendant
12 Natwest Markets Securities Inc. (f/k/a RBS Securities Inc.) is a Delaware corporation
13 registered to do business in California, with its principal place of business at 600 Washington
14 Boulevard, Stamford, Connecticut 06901 (hereinafter the Royal Bank of Scotland and
15 National Westminster entities shall be referred to collectively as “Royal Bank of Scotland” or
16 “RBS” when not referenced individually). RBS and its other unnamed subsidiaries and
17 affiliates share a unity of corporate interest and operate as a single enterprise in furtherance of
18 the combination and conspiracy alleged herein.

19 25. Defendant Royal Bank of Canada is a chartered Schedule I Bank under the
20 Canada Bank Act with its principal place of business at 200 Bay Street, Toronto, Ontario M5J
21 2J5, Canada, and it operates a New York branch at Three World Financial Center, 200 Vesey
22 Street, 8th Floor, New York, New York 10281. Defendant RBC Capital Markets, LLC is a
23 Minnesota limited liability company registered to do business in California, with its principal
24 place of business and headquarters located at Three World Financial Center, 200 Vesey Street,
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1 8th Floor, New York, New York 10281 (hereinafter, the Royal Bank of Canada entities shall
2 be referred to collectively as “Royal Bank of Canada” or “RBC” when not referenced
3 individually). RBC and its other unnamed subsidiaries and affiliates share a unity of corporate
4 interest and operate as a single enterprise in furtherance of the combination and conspiracy
5 alleged herein.

6
7 26. Defendant Sumitomo Mitsui Banking Corporation is a bank organized under
8 the laws of Japan with its principal place of business at 1-1-2, Marunouchi, Chiyoda-ku,
9 Tokyo, Japan. Defendant Sumitomo Mitsui Banking Corporation is registered to do business
10 in California, and it operates a San Francisco branch at 555 California Street, Suite 3350, San
11 Francisco, CA 94104, and a New York branch at 277 Park Avenue, New York, New York
12 10172. Defendant Sumitomo Mitsui Financial Group Inc. is a Japanese corporation organized
13 under the laws of Japan with its principal place of business at 1-1-2, Marunouchi, Chiyoda-ku,
14 Tokyo, Japan. Defendant Sumitomo Mitsui Banking Corporation Europe Ltd. is a U.K. public
15 limited company with its principal place of business at Temple Court, 11 Queen Victoria
16 Street, London, EC4N 4TA, United Kingdom. SMBC Capital Markets, Inc. is a Delaware
17 corporation registered to do business in California, with its principal place of business at 277
18 Park Avenue, New York, New York 10172 (hereinafter the Sumitomo entities shall be
19 referred to collectively as “Sumitomo” if not referenced individually). Sumitomo and its other
20 unnamed subsidiaries and affiliates share a unity of corporate interest and operate as a single
21 enterprise in furtherance of the combination and conspiracy alleged herein.
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24 27. Defendant The Norinchukin Bank (“Norinchukin”) is a Japanese bank
25 organized and operated under the laws of Japan with its principal place of business at 1-12,
26 Uchikanda 1-chome, Chiyoda-ku, Tokyo 101-0047, Japan, and it operates a New York branch
27 located at 245 Park Avenue, Floor 21, New York, New York 10167. Norinchukin and its
28

1 other unnamed subsidiaries and affiliates share a unity of corporate interest and operate as a
2 single enterprise in furtherance of the combination and conspiracy alleged herein.

3 28. Defendant UBS Group AG is a Swiss AG with principal places of business at
4 45 Bahnhofstrasse, Zurich CH-8098, Switzerland and 1 Aeschenvorstadt, Basel CH-4051,
5 Switzerland. Defendant UBS AG is a Swiss AG with principal places of business at 45
6 Bahnhofstrasse, Zurich CH-8098, Switzerland and 1 Aeschenvorstadt, Basel CH-4051,
7 Switzerland and it operates a Connecticut Branch at 677 Washington Boulevard, Stamford,
8 Connecticut 06901. Defendant UBS Securities LLC is a Delaware limited liability company
9 registered to do business in California, with its principal place of business at 1285 Avenue of
10 the Americas, New York, New York 10019 (hereinafter, the UBS entities shall be referred to
11 collectively as “UBS” if not referenced individually). UBS and its other unnamed subsidiaries
12 and affiliates share a unity of corporate interest and operate as a single enterprise in
13 furtherance of the combination and conspiracy alleged herein.
14
15

16 29. Various persons, partnerships, firms, and corporations not named as
17 Defendants in this lawsuit, and individuals, the identities of which are presently unknown,
18 have participated as co-conspirators with Defendants in the offense alleged in this Complaint,
19 and have performed acts and made statements in furtherance of the illegal combination and
20 conspiracy. The unreasonable restraint of trade in this case is the hub-and-spoke price fixing
21 agreement between and among ICE, the Defendant Contributor Panel Banks, and virtually
22 every other bank in the United States using LIBOR as a component of interest charged in its
23 variable interest rate consumer loans and credit. By perpetuating this arrangement, the banks
24 collectively have ceded power and authority to ICE and the Defendant banks to set,
25 implement, and enforce a horizontal price-fixing restraint in which they are knowing
26 participants.
27
28

FACTUAL BACKGROUND

BBA LIBOR

30. British Bankers' Association ("BBA") is the leading trade association for the financial-services sector in the United Kingdom.¹

31. When BBA administered LIBOR, it was a private association that was operated without regulatory or government oversight and was governed by senior executives from its member banks.

32. The BBA began setting LIBOR on January 1, 1986, using separate panels for different currencies. The U.S. Dollar ("USD") LIBOR panel was composed of as many as 16-18 member banks of the BBA.

33. Under the BBA LIBOR regime, the daily USD LIBOR was set by surveying the 16 panel bank members. Each panel bank member was asked, "At what rate could you borrow funds, were you to do so by asking for and then accepting inter-bank offers in a reasonable market size just prior to 11 a.m.?" Each bank was to respond on the basis of (in part) its own research, and its own credit and liquidity risk profile. Thomson Reuters later compiled these submissions and published them on behalf of the BBA. The final LIBOR was the mean of the eight submissions left after excluding the four highest submissions and the four lowest.² The daily submission of each bank was to remain confidential until after LIBOR was finally computed and published; and all 16 individual submissions were to be published along with the final daily rate and would thus be "transparent on an *ex post* basis."³

34. Between 2007 and 2012, investigations revealed that the panel member banks had intentionally manipulated and conspired to fix LIBOR. A number of panel member banks

¹ *Gelboim*, 823 F.3d at 765.

² *Gelboim*, 823 F.3d at 765-766.

³ *Gelboim*, 823 F.3d at 766.

1 paid substantial fines for their participation in the conspiracy, including UBS, Barclays, RBS,
2 Rabobank, Deutsche Bank, and JPMorgan Chase, among others.

3 35. On September 25, 2012, it was announced publicly that the BBA was preparing
4 to hand over administration of LIBOR to UK regulators.⁴

5 **DEFENDANTS' UNLAWFUL COMBINATION AND CONSPIRACY TO FIX PRICES**
6 **ON USD LIBOR-BASED VARIABLE-INTEREST RATE CONSUMER LOANS AND**
7 **CREDIT CARDS AND CONSPIRACY TO MONOPOLIZE**

8 36. On February 1, 2014, the Intercontinental Exchange Benchmark
9 Administration Limited ("IBA") took over managing LIBOR, changing it to the ICE LIBOR.

10 37. LIBOR is calculated and published by IBA on London business days for 5
11 currencies with 7 maturities quoted for each - ranging from overnight to 12 months, producing
12 35 rates, at 11:55 am London time on each applicable London business day.⁵

13 38. Each LIBOR calculation is currently based on input data contributed by a panel
14 of between 11 and 16 Contributor Banks for each of the five LIBOR currencies. Each
15 Contributor Bank contributes input data for all seven LIBOR tenors in every currency in
16 respect of which it is on a panel.⁶

17 39. According to the IBA, its LIBOR Oversight Committee considers the following
18 criterion for eligibility on the Contributor Bank Panels: (1) transactional activity overall; (2)
19 expertise in wholesale markets; (3) bank size; (4) credit quality; (5) reputational standing; (6)
20 types and mix of transactional activity and bank sources of funding; and (7) geographical
21 reach of banks.⁷

22 40. The following table shows the current panel composition for USD LIBOR:

23
24
25

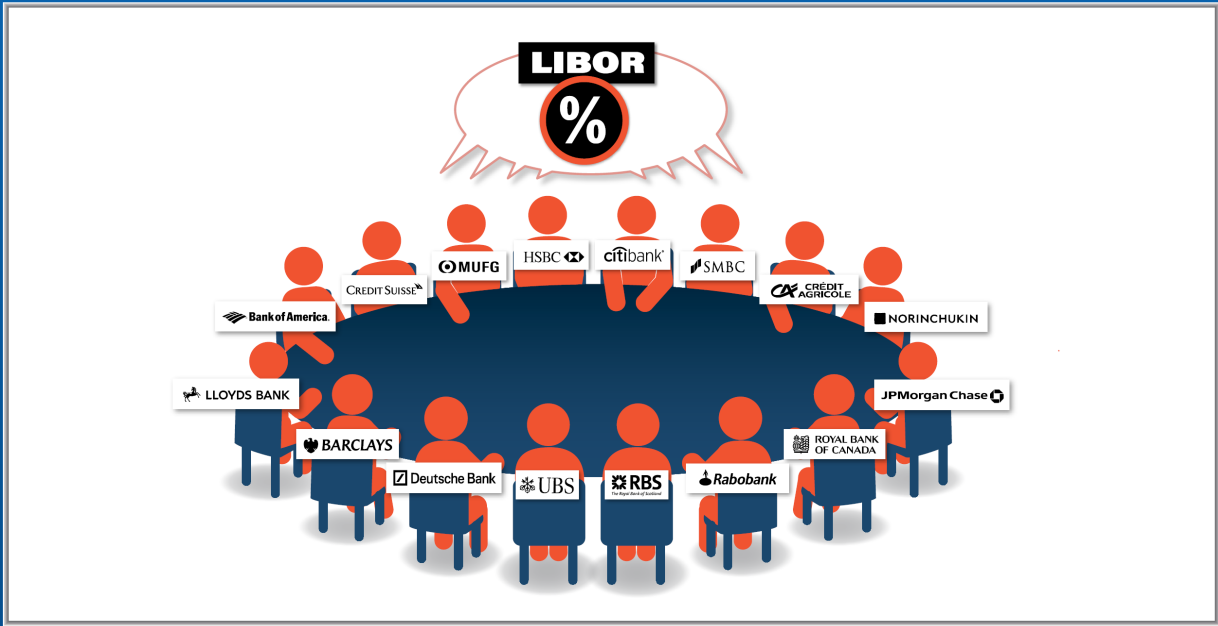
⁴ <https://www.wsj.com/articles/SB10000872396390444180004578018371243449916>

26 ⁵ https://www.theice.com/publicdocs/ICE_LIBOR_Roadmap0316.pdf, at p. 5.

27 ⁶ <https://www.theice.com/iba/libor> and
https://www.theice.com/publicdocs/ICE_LIBOR_Roadmap0316.pdf, at p. 5.

28 ⁷ https://www.theice.com/publicdocs/Policy_Composition_ICE_LIBOR_Panels.pdf

Panel Banks Agree on Formula to Fix Interbank Interest Rate

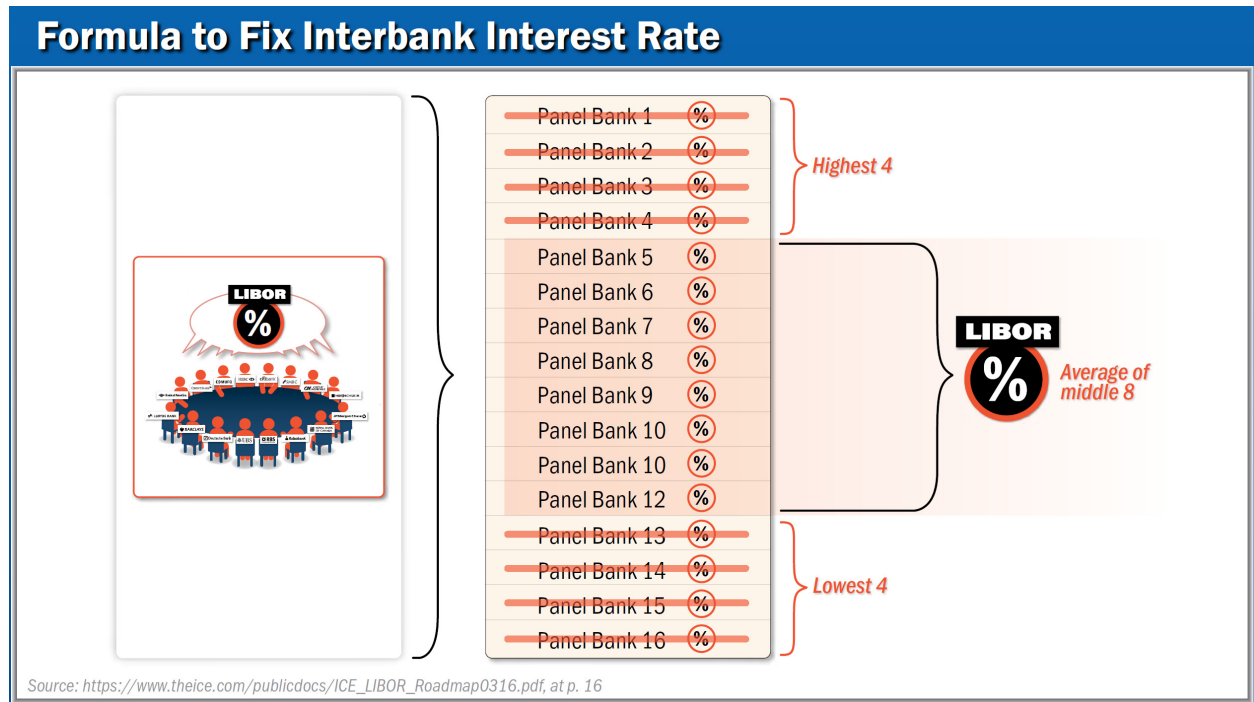


41. Defendants Bank of America, Barclays, Citibank, Rabobank, Credit Suisse, Deutsche Bank, HSBC, JPMorgan Chase, Lloyds Bank, MUFG Bank, NatWest/Royal Bank of Scotland, Royal Bank of Canada, Sumitomo, Norinchukin, and UBS are IBA Contributor Banks for the USD LIBOR panel.

42. LIBOR is calculated by the IBA based on submissions from the Contributor Banks through the use of a “Waterfall Methodology” which includes the following levels: (1) “Transaction-Based” Data, with a greater weighting of transactions booked closer to 11:00 a.m. London time; (2) “Transaction-Derived” Data, including time-weighted historical eligible transactions adjusted for market movements and linear interpolation; and (3) “Expert Judgment,” market and transaction data based “expert judgment,” using the bank’s own internally approved procedure.⁸

⁸ <https://www.theice.com/iba/libor>

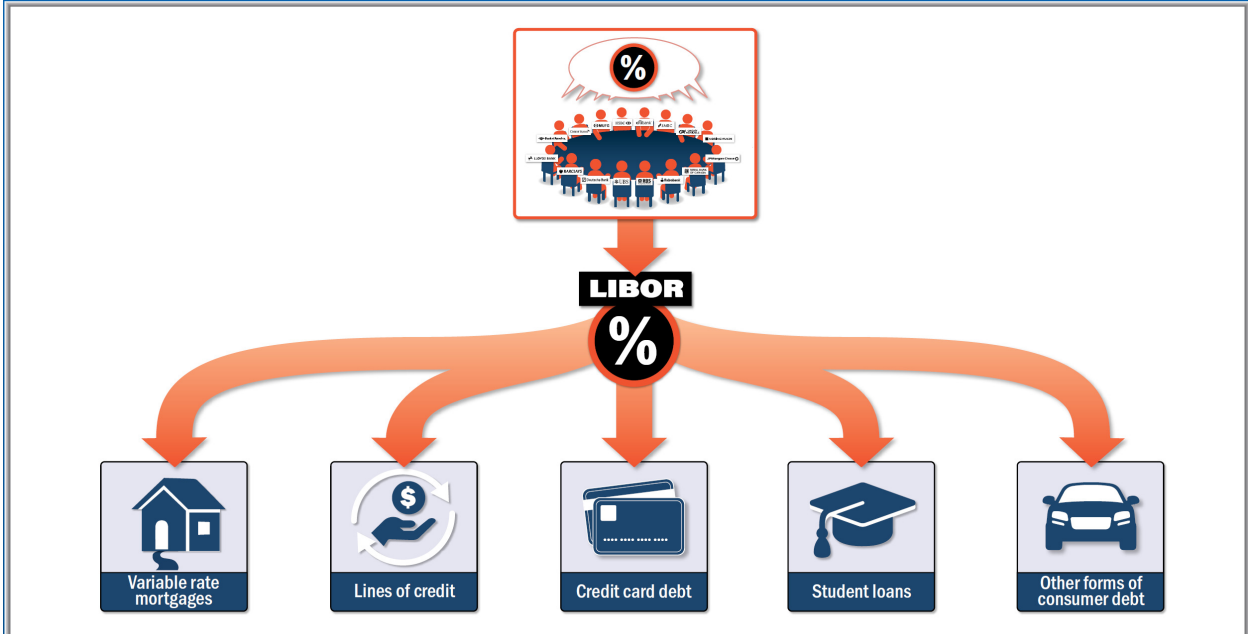
43. IBA calculates LIBOR using a trimmed arithmetic mean. Once all submissions are received from the Contributor Banks, they are ranked in descending order and then the highest and lowest quartiles of submissions are excluded to remove outliers from the final calculation. A mean is calculated from the remaining middle quartiles, rounded to five decimal places. Each Contributor Bank's submission carries an equal weight in the calculation, subject to the trimming.⁹



44. LIBOR is jointly set by the Defendants. Defendants and their co-conspirator banks in the United States agree to use and do use USD LIBOR as a component of the interest charged in variable interest rate loans and credit cards in the United States. Variable rate interest consumer loans and credit tied to USD LIBOR include variable rate mortgages, lines of credit, credit card debt, student loans, and other forms of consumer debt.

⁹ https://www.theice.com/publicdocs/ICE_LIBOR_Roadmap0316.pdf, at p. 16.

Variable Interest Rate Consumer Loans Tied to LIBOR



45. A reasonable estimate of the competitive price is the lowest rate submitted by the Contributor Banks, which is excluded by virtue of Defendants’ unlawful combination or conspiracy.

46. Each USD LIBOR Contributor bank agrees to adhere to the LIBOR Code of Conduct established by IBA.

47. The LIBOR Code of Conduct established by the IBA, “sets out the framework within which LIBOR Contributor Banks are expected to operate.”¹⁰

48. Under the LIBOR Code of Conduct, each Contributor Bank’s “submitters and their direct managers must acknowledge in writing that they have read the [LIBOR] code of conduct and that they will comply with it.”¹¹

¹⁰ https://www.theice.com/publicdocs/LIBOR_Code_of_Conduct_Issue_7_Current.pdf, at p.

3.

¹¹ https://www.theice.com/publicdocs/LIBOR_Code_of_Conduct_Issue_7_Current.pdf, at p.

31.

1 49. Under the LIBOR Code of Conduct, a “Contributor Bank is required to
2 formulate its LIBOR Submissions in accordance with the methodology requirements
3 published by IBA at: https://www.theice.com/publicdocs/ICE_LIBOR_Methodology.pdf.”¹²

4 50. Under the LIBOR Code of Conduct, each Contributor Bank is required to make
5 “Submissions....between 11.05 and 11.39.59 on each London business day. Submissions
6 received at or after 11.40 will be regarded as late. If a bank makes frequent late Submissions,
7 the matter will be reported to the LIBOR Oversight Committee...”¹³

8 51. Under the LIBOR Code of Conduct, each Contributor Bank is required to
9 maintain “written policies and procedures designed to ensure that this LIBOR Code is
10 implemented and systematically applied within the Contributor Bank...”¹⁴

11 52. Under the LIBOR Code of Conduct, each Contributor Bank must “ensure that
12 appropriate records are kept of its business and internal organisation, which must be available
13 to IBA on request, to the extent permitted by applicable law, in order to monitor the bank’s
14 compliance with the requirements under [the] LIBOR Code [of Conduct].”¹⁵

15 53. By agreeing to comply and adhere to the terms set forth in the LIBOR Code of
16 Conduct, the Contributor Banks agree to fix USD LIBOR.

17 54. Further, the LIBOR Code of Conduct is overseen and enforced by the IBA’s
18 “LIBOR Oversight Committee,” which has “broad market representation, being comprised of
19 Contributor Banks, benchmark users, market infrastructure providers, independent non-
20 executive directors of IBA, and other relevant experts. Representatives from the Board of
21

22
23
24 _____
25 ¹² https://www.theice.com/publicdocs/LIBOR_Code_of_Conduct_Issue_7_Current.pdf, at p.

26 ¹³ https://www.theice.com/publicdocs/LIBOR_Code_of_Conduct_Issue_7_Current.pdf, at p. 9

27 ¹⁴ https://www.theice.com/publicdocs/LIBOR_Code_of_Conduct_Issue_7_Current.pdf, at p.

28 ¹⁴.

¹⁵ https://www.theice.com/publicdocs/LIBOR_Code_of_Conduct_Issue_7_Current.pdf, at p.

28.

1 Governors of the Federal Reserve System, the Swiss National Bank and the Bank of England
 2 also sit on the committee as observers.”¹⁶

3 55. The LIBOR Oversight Committee, which is composed of some Defendants and
 4 other unnamed co-conspirators, is responsible for, “Reviewing the methodology, scope and
 5 definition of the benchmark (including assessing its underlying market and usage); Overseeing
 6 any changes to the benchmark; and Overseeing and reviewing the LIBOR Code of
 7 Conduct.”¹⁷

8
 9 56. The members of the LIBOR Oversight Committee as of December 2019 are as
 10 follows:¹⁸

First Name	Surname	Company	Committee Position
Paula	Madoff	ICE Benchmark Administration (Independent Non-Executive Director)	Chairwoman
Timothy J	Bowler	ICE Benchmark Administration (President)	Ex Officio
David	Bowman	Federal Reserve System (Associate Director - Division of International Finance)	Observer
Steve	Bullock	Lloyds Bank (Head of Benchmark Submission and Supervision)	Contributor of Input Data representative
David	Clark	EVIA (Chairman)	Association representative
Clare	Dawson	LMA (Chief Executive)	Association representative

16 <https://www.theice.com/iba/libor>

17 <https://www.theice.com/iba/libor>

18
 19 [https://www.theice.com/publicdocs/LIBOR Oversight Committee Disclosures of Conflicts
 20 of Interest.pdf](https://www.theice.com/publicdocs/LIBOR_Oversight_Committee_Disclosures_of_Conflicts_of_Interest.pdf)

Galina	Dimitrova	The Investment Association (Director, Investments and Capital Markets)	Association representative
Angus	Graham	UBS (Group Finance)	Contributor of Input Data representative
John	Grout	Independent	Independent Expert
George	Handjinicolaou	Piraeus Bank (Chairman)	Financial Intermediary representative
Matthias	Jüttner	Swiss National Bank (Assistant Director - Money Market)	Observer
Candice	Koederitz	ICE Benchmark Administration (Independent Non-Executive Director)	Independent Non-Executive Director
Will	Parry	Bank of England (Senior Manager - Sterling Markets Division)	Observer
David	Peniket	ICE Futures US (Director)	Market Infrastructure Provider representative
Rob	Thurlow	Mizuho Corporate Bank (Head of ALM / Benchmark Manager)	Contributor of Input Data representative
Kathleen	Yoh	Independent	Independent Expert

57. In 2018-2019, the IBA conducted two surveys to determine and agree upon which LIBOR settings would be produced after 2021.¹⁹

58. The IBA plans on “[u]sing the results of this survey and other outreach work...[to] work with globally active banks to seek to publish certain LIBOR settings after year-end 2021.”²⁰

59. The survey explains that, “The primary goal of IBA’s work in seeking to obtain sufficient banking industry support to publish certain LIBOR settings after year-end 2021 is to

¹⁹ <https://www.tactweb.org/media/2019/01/2019.05.02-LIBOR-Working-Group.pdf>, at p. 3.

²⁰ https://www.theice.com/publicdocs/Results_of_the_IBA_Survey_on_the_use_of_LIBOR.pdf, at p. 2.

1 provide these settings to users with outstanding LIBOR-linked contracts that are impossible or
2 impractical to modify.”²¹

3 60. The first survey of its existing global Panel Banks sought “to identify the
4 LIBOR settings that are critical to the global financial system.” The results of that survey
5 were never made public.²²

6 61. The second survey of LIBOR end-users sought to determine which LIBOR
7 settings were most commonly used.²³

8 62. The results of the survey were published in March 2019 and included feedback
9 from 109 Respondents. According to the minutes of a LIBOR Trade Association Working
10 Party Meeting held in May 2019, the overwhelming majority of survey respondents focused
11 on lending activities when asked to set out the main uses of currency and tenor pairs that they
12 used the most.

13 63. According to the minutes of a LIBOR Trade Association Working Party
14 Meeting held in May 2019, the IBA is now focusing on engaging with panel and potential
15 panel banks to seek their commitment to providing continued submissions in respect of those
16 tenor and currency pairs after 2021.²⁴

17 64. In response to the question, “IBA would like to understand which LIBOR
18 currency and tenor pairs you and/or your organisation use the most and for which you would
19 like to see IBA work to seek an agreement with globally active banks to support publication
20 after 2021,” the top three currency/tenor pairs selected by the second survey’s respondents
21
22
23

24
25 ²¹
https://www.theice.com/publicdocs/Results_of_the_IBA_Survey_on_the_use_of_LIBOR.pdf,
26 at p. 2

27 ²² <https://www.tactweb.org/media/2019/01/2019.05.02-LIBOR-Working-Group.pdf>, at p. 3.

28 ²³ <https://www.tactweb.org/media/2019/01/2019.05.02-LIBOR-Working-Group.pdf>, at p. 3.

²⁴ <https://www.tactweb.org/media/2019/01/2019.05.02-LIBOR-Working-Group.pdf>, at p. 3-4.

1 were as follows: (1) USD LIBOR 3 Month; (2) USD LIBOR 1 Month; and (3) the USD
2 LIBOR 6 Month.²⁵

3 65. In response to the question, “IBA would like to understand which LIBOR
4 currency and tenor pairs you and/or your organisation use the most and for which you would
5 like to see IBA work to seek an agreement with globally active banks to support publication
6 after 2021,” out of 109 responses, the number of respondents selecting the USD
7 currency/tenor pairs are as follows²⁶:
8

- 9 • Over 90 respondents selected the 3-month USD LIBOR currency/tenor pair.
- 10 • Over 75 respondents selected the 1-month USD LIBOR currency/tenor pair.
- 11 • Over 65 respondents selected the 6-month USD LIBOR currency/tenor pair.
- 12 • Over 35 respondents selected the 12-month USD LIBOR currency/tenor pair.
- 13 • Over 35 respondents selected the overnight USD LIBOR currency/tenor pair.
- 14 • 30 respondents selected the 1-week USD LIBOR currency/tenor pair.
- 15 • Over 25 respondents selected the 2-month USD LIBOR currency/tenor pair.

16 66. In response to the survey question, “Please set out the main uses of the
17 currency and tenor pairs you use the most,” the following number of co-conspirator banks and
18 other institutions surveyed responded that they mainly use the following USD LIBOR
19 currency/tenor pairs for, “Retail products (e.g. consumer loans, credit cards, mortgages,
20 investment products):
21
22
23
24

25 ²⁵
26 https://www.theice.com/publicdocs/Results_of_the_IBA_Survey_on_the_use_of_LIBOR.pdf,
at p. 5.

27 ²⁶
28 https://www.theice.com/publicdocs/Results_of_the_IBA_Survey_on_the_use_of_LIBOR.pdf,
at p. 10.

1	1 Month USD LIBOR	1
2	3-Month USD LIBOR	2
3	6-Month USD LIBOR	2
4	12-Month USD LIBOR	4

6 67. The IBA survey therefore illustrates the agreement, combination and
7 conspiracy, between and among Defendants and its unnamed co-conspirators to use and
8 continue to use the USD LIBOR as a component of the price in variable interest rate consumer
9 loans.

10
11 **VIOLATIONS ALLEGED**

12 **Sherman Act, Section 1, 15 U.S.C. § 1**

13 68. Plaintiffs incorporate by reference the preceding allegations.

14 69. Defendants and their unnamed co-conspirators entered into and engaged in a
15 conspiracy in unreasonable restraint of trade in violation of Section 1 of the Sherman Act.

16 70. Defendants' unlawful combination or conspiracy is an unlawful agreement to
17 fix prices and is a *per se* violation of the antitrust laws.

18 71. During the preceding four years, Defendants set and controlled LIBOR and
19 therefore controlled the interest rates of consumer loans and credit cards tied LIBOR offered
20 and sold by them and their co-conspirators.

21 72. The conspiracy consisted of a continuing agreement, understanding or concerted
22 action between and among Defendants and their co-conspirators in furtherance of which
23 Defendants fixed LIBOR and thus the prices and interest rates on consumer loans and credit cards
24 with rates tied to LIBOR offered, sold, and serviced by Defendants and their co-conspirators.
25 Defendants' conspiracy is a *per se* violation of the federal antitrust laws and is, in any event, an
26 unreasonable and unlawful restraint of trade and commerce.
27
28

1 73. Defendants' conspiracy, and the resulting impact on the market for LIBOR-based
2 consumer loans and credit cards occurred in or affected interstate and foreign commerce.

3 74. As a proximate result of Defendants' unlawful conduct, Plaintiffs have suffered
4 injury to their business or property.

5 75. Plaintiffs have been injured and will continue to be injured in their business and
6 property as a result of Defendants' conduct, by way of paying anticompetitive prices for variable
7 rate interest consumer loans and credit cards. *See* 15 U.S.C. § 15.

8 76. The Plaintiffs are each entitled to preliminary and permanent injunctive relief
9 under Section 16 of the Clayton Antitrust Act, 15 U.S.C. § 26, for Defendants' violations of the
10 Sherman Act alleged herein, and to recover their cost of suit, including a reasonable attorney's fee.

11 **Sherman Act, Section 2, 15 U.S.C. § 2 – Conspiracy to Monopolize**

12 77. Plaintiffs incorporate by reference the preceding allegations.

13 78. Defendants and their unnamed co-conspirators entered into and engaged in a
14 conspiracy to monopolize in violation of Section 2 of the Sherman Act.

15 79. During the preceding four years, Defendants set and controlled LIBOR and
16 therefore controlled the interest rates of consumer loans and credit cards tied LIBOR offered
17 and sold by them and their co-conspirators.

18 80. Defendants have the specific intent to achieve monopoly power in the relevant
19 market, as alleged in the paragraphs above.

20 81. In furtherance of the conspiracy, Defendants have committed several
21 overt acts as set out herein.

22 82. Defendants' conspiracy, and the resulting impact on the market for LIBOR-based
23 consumer loans and credit cards occurred in or affected interstate and foreign commerce.

24 83. As a proximate result of Defendants' unlawful conduct, Plaintiffs have suffered
25 injury to their business or property.
26
27
28

1 84. Plaintiffs have been injured and will continue to be injured in their business and
2 property as a result of Defendants' conduct, by way of paying anticompetitive prices for variable
3 rate interest consumer loans and credit cards. *See* 15 U.S.C. § 15.

4 85. The Plaintiffs are each entitled to preliminary and permanent injunctive relief
5 under Section 16 of the Clayton Antitrust Act, 15 U.S.C. § 26, for Defendants' violations of the
6 Sherman Act alleged herein, and to recover their cost of suit, including a reasonable attorney's fee.

7 **PRAYER FOR RELIEF**

8 WHEREFORE, Plaintiffs demand the following relief from this Honorable Court:

9 A. Declaring, finding, adjudging, and decreeing that the unlawful conduct alleged
10 herein be adjudged and decreed to be an unlawful restraint of trade in violation of Section 1 of the
11 Sherman Act and Section 16 of the Clayton Act;

12 B. Declaring, finding, adjudging, and decreeing that the unlawful conduct alleged
13 herein be adjudged and decreed to be an unlawful restraint of trade in violation of Section 2 of the
14 Sherman Act and Section 16 of the Clayton Act;

15 C. That Defendants, their subsidiaries, affiliates, successors, transferees, assignees
16 and the respective officers, directors, partners, agents, and employees and all other persons acting
17 or claiming to act on their behalf, be prohibited from continuing and maintaining the conspiracy
18 alleged in the Complaint;

19 D. Declaring, finding, adjudging, and decreeing that any agreement that includes
20 USD LIBOR as a component of the variable interest rate charged is illegal and void under the
21 antitrust laws of the United States;

22 E. Prohibit the Defendants from enforcing any agreement for USD LIBOR-based
23 variable interest rate consumer loans or credit cards, in whole or in part;

24 F. Prohibit the Defendants from combining and conspiring to agree upon another
25 so-called benchmark rate to replace LIBOR.
26
27
28

1 G. Awarding to Plaintiffs treble damages under Section 4 of the Clayton Antitrust
2 Act, 15 U.S.C. §§ 15, 26.

3 H. Awarding to Plaintiffs costs of suit, including a reasonable attorney's fee as
4 provided by Sections 4 and 16 of the Clayton Antitrust Act, 15 U.S.C. §§ 15, 26.

5 I. Granting to Plaintiffs such other and further relief to which they may be
6 entitled and which the Court finds to be just and appropriate.
7

8 **JURY TRIAL DEMANDED**

9 Plaintiffs Lisa McCarthy, *et al.*, demand a trial by jury as their right under the Seventh
10 Amendment to the Constitution of the United States or as given by statute. Fed. R. Civ. P. 38.
11

12 Dated: August 18, 2020

ALIOTO LAW FIRM

13
14
15 By: /s/ Joseph M. Alioto

16 Joseph M. Alioto (SBN 42680)
17 Jamie L. Miller (SBN 271452)
18 Angelina Alioto-Grace (SBN 206899)
19 **ALIOTO LAW FIRM**
20 One Sansome Street, 35th Floor
21 San Francisco, CA 94104
22 Telephone: (415) 434-8900
23 Facsimile: (415) 434-9200
24 E-mail: jmalioto@aliotolaw.com
25 jmiller@aliotolaw.com
26
27
28

PLAINTIFFS' COUNSEL

1
2 Joseph M. Alioto (SBN 42680)
3 Jamie L. Miller (SBN 271452)
4 Angelina Alioto-Grace (SBN 206899)
5 ALIOTO LAW FIRM
6 One Sansome Street, 35th Floor
7 San Francisco, CA 94104
8 Telephone: (415) 434-8900
9 Facsimile: (415) 434-9200
10 Email: jmalियो@alioiolaw.com
11 jmiller@alioiolaw.com

12
13 Lawrence G. Papale (SBN 67068)
14 LAW OFFICES OF LAWRENCE G. PAPALE
15 The Cornerstone Building
16 1308 Main Street, Suite 117
17 St. Helena, CA 94574
18 Telephone: (707) 963-1704
19 Facsimile: (707) 963-0706
20 Email: lgpapale@papalelaw.com

21
22 Christopher A Nedeau (SBN 81297)
23 NEDEAU LAW PC
24 750 Battery Street, 7th Floor
25 San Francisco, CA 94111
26 Telephone: 415-516-4010
27 Email: cnedeau@nedeaulaw.net
28