quinn emanuel trial lawyers | new york
295 5th Avenue, 9th Floor, New York, New York 10016 |
TEL (212) 849-7000 FAX (212) 849-7100

COHENMILSTEIN
1100 New York Ave, 8th Floor, Washington, D.C. 20005 |
TEL (202) 408 4600 FAX (202) 408 4699

Daniel L. Brockett
(212) 849-7345
danbrockett@quinnemanuel.com

Michael B. Eisenkraft
(212) 838-0177
meisenkraft@cohenmilstein.com

July 28, 2026

VIA ECF

MEMO ENDORSED

The Honorable Katherine Polk Failla
Thurgood Marshall United States Courthouse
40 Foley Square
New York, NY 10007

Re: Status Update on Motion to Distribute Settlement Funds
Iowa Pub. Emps.' Ret. Sys. et al. v. Bank of Am. Corp. et al., No. 17-cv-6221 (KPF)

Dear Judge Failla:

We write as Class Counsel concerning the Court's Order of July 1, 2026, directing Plaintiffs to move for initial distribution by July 31, 2026. ECF No. 757. Because of recently emerging issues with the Settlement Administrator's calculations and responsiveness, Plaintiffs are concerned that they will be unable to move for distribution on Friday with the concrete plan and level of detail Plaintiffs would prefer. While they hope they will be able to move for distribution with confidence as early as Monday, August 10, Class Counsel believe it prudent to inform the Court of these issues in advance of Friday's deadline.

Over the last two years, Class Counsel and the Settlement Administrator, Epiq, have devoted an enormous amount of time and effort to reaching Settlement Class Members, helping them understand the claims process and secure needed data from their banks and other financial institutions, working with those institutions to understand and process data, and processing nearly 3 billion submitted transactions. Epiq has sent nearly 20,000 notices concerning deficient claims or transactions, and has resolved thousands of those claims. While the process is certainly nearing the finish line and appeared on track until quite recently, Class Counsel are reluctant to recommend distribution until the following late-breaking issues are resolved.

CCV recalculations. In the time since their last letter, Class Counsel learned of a significant error in Epiq's implementation of the method for calculating claim values. Epiq has implemented changes to its calculations to resolve the error, which it believes will be complete Thursday, July 30, and believes that it will be able to test the calculations and compile the remaining statistics needed for distribution by August 7. Because the issue will impact most, if not all, claimants' *pro rata* shares of the Settlement Funds, Class Counsel do not believe it prudent to move for distribution until the recalculations are complete.

Pursuant to the Plans of Allocation approved by the Court, the Settlement Funds will be distributed *pro rata* based on the "Credited Claim Value" ("CCV") of the transactions each Claimant submits for processing.[1] ECF No. 662-5 ¶ 47 (New Settlement); ECF No. 662-4 ¶ 49 (Credit Suisse Settlement). The CCV of each transaction is calculated according to the following formula:

$$\text{CCV} = \text{NV}\ x\ \text{DM}\ x\ \text{LRM}$$

ECF No. 662-5 ¶ 48, ECF No. 662-4 ¶ 50. In the equation above, "NV" is the notional value of the transaction (*i.e.*, the value of posted collateral); "LRM" is a legal risk multiplier reflecting factors related to the strength of certain kinds of claims, and "DM" is a multiplier reflecting the extent to which certain "temperatures" of transaction were damaged, based on the loan cost rate of the transaction. Each transaction is classified as "hot," "warm," or "general collateral," based on loan cost rate thresholds drawn from Plaintiffs' experts' reports in support of class certification. *See* ECF No. 662-5 ¶¶ 48-62; ECF No. 662-4 ¶¶ 50-64. The loan cost rate of a transaction as calculated from transaction records and prevailing interest rates was compared to these threshold rates to categorize each transaction by "temperature," which was then used to determine what Damages Multiplier and Legal Risk Multiplier would apply to each transaction.

During a meeting on July 9, 2026 to resolve outstanding issues, we determined that Epiq needed to re-run their CCV calculations. This is because of the way Epiq was handling loan cost rate calculations, which were being converted from *annual* interest rates into a *daily* interest rate (expressed as a percentage), and then compared to the temperature thresholds, which were expressed as an annual rate (in basis points, 1/100th of a percent). Because the units in which the thresholds were expressed differ from the units output by Epiq's calculation, many of the transactions have been misclassified. The issue was coded into Epiq's processing logic and was not apparent to us until a claims representative who had run their own check calculations noticed the disparity and brought it up with Epiq, who then raised it with us. As noted above, Epiq expects to have recalculations of claim values and preliminary relative *pro rata* entitlements completed by August 7.

Deficiency issues. Epiq has processed and validated a certain number of claims, reaching an ultimate determination as to the CCVs of those claims. Certain other claims ("Claims in Process") remain outstanding while Epiq and Claimants worked through apparent deficiencies. When we last wrote the Court on June 30, 2026, proposing a partial distribution, we believed, based on conversations with Epiq, that the Claims in Process had been (or shortly would be) processed *sufficiently* to identify with reasonable confidence (1) a *minimum* total CCV "pool" for each Settlement Fund, consisting of all fully processed and validated claims plus the value of undisputed, valid *transactions* from "Claims in Process"; and (2) a *maximum* total CCV pool for each Settlement Fund, which would add the CCVs of transactions, the validity of which remained to be determined in the deficiency process. ECF No. 756 at 1-2. Because most deficiencies would likely not be cured, the ultimate CCV pool would be somewhere between these two numbers.

[1] There are minor exceptions to the *pro rata* formula for alternative minimum payments to Settlement Class Members. *See* ECF No. 662-5 ¶ 68; ECF No. 662-4 ¶ 70.

With these two numbers identified, the Settlement Administrator could pay fully processed claimants the *minimum* amount to which they would be entitled,[2] and distribute the remainder owed to them (and to the remaining claimants) in a subsequent distribution after all outstanding deficiencies had been resolved.[3]

Recently, Class Counsel learned that there are claims still going through the deficiency process that have not been accurately valued to a level of precision with which Class Counsel is comfortable. Many of the transactions identified by Epiq as deficient lack key price and collateral values, such that their value cannot even be estimated until the needed terms are provided. The vast majority of these transactions will be declared invalid or used to support alternative minimum payments, but until they are resolved the maximum total CCV pools are necessarily indeterminate; claimants could provide the missing terms along with sufficient proof, adding valid transactions to the current estimated maximum. If distributions were made *now* to fully processed claimants based on the currently estimated maximum, it is possible that claimants could be paid *more* than their ultimate entitlements, leaving other claimants with *less* than their full entitlements in a later distribution.

We are also concerned that Epiq's draft declaration—which was to be proffered to the Court in support of the final distribution motion—appears to reflect a decrease in the number of claims "fully processed" since June 30 and an increase in the number of claims "in process." Communications with Epiq seem to suggest that these disparities are semantic rather than substantive, and that additional progress has been made since June 30, but Class Counsel need additional time to assure themselves as to the correct figures. Class Counsel believe they should be able to obtain the needed information in parallel with the other issues described above.

Counsel's Proposed Way Forward. In fairness to Epiq, they have been given one of the most complex Settlement Administration tasks in recent memory. Claimants have submitted nearly 3 *billion* transactions, many of which Class Counsel and Epiq have had to help gather with assistance from the Prime Broker Defendants and Plaintiffs' own consulting experts. While the claims administration process has taken nearly two years, Class Counsel believe much of that time would have been necessary under any circumstance to allow Settlement Class Members to obtain the data needed to fairly distribute the Settlement Funds.

Unfortunately the late-breaking issues above prevent us from recommending a distribution this week. While the reserve contemplated by our earlier plan provides some safety net, we think

[2] Plaintiffs preliminarily proposed as a matter of administrative convenience under the alternative minimum payment provisions that claims under $500 be paid in full in the first distribution, anticipating that the slight overpayment to these claimants would differ insignificantly from their final entitlements and reduce the administrative costs borne by Settlement Class Members overall. ECF No. 756 at 2.

[3] Indeed, given these two numbers, Plaintiffs believe they should be able to make minimum guaranteed payments to *all* claimants, distributing the substantial majority of the Settlement Funds and leaving only small "top-up" payments for the final determination stage. As they resolve these issues they hope to be able to expand the number of claimants who receive payments in the first distribution.

the risk of inappropriate distributions would be high until Epiq's recalculations are complete and we have more confidence in the numbers than we currently have. Based on information being provided by Epiq, we are optimistic that the revised calculations and forthcoming additional information from Epiq will allow us to move for distribution on August 10 or shortly thereafter. But we do not wish to make further promises to the Court on the strength of Epiq's self-assessment in that regard.

We thus propose that, if a motion for partial distribution is not filed before then, we provide status updates to the Court at least every two weeks on these issues, beginning Monday, August 10. We can also be available at the Court's convenience should it have any questions.

Respectfully submitted,

/s/ Michael B. Eisenkraft
Michael B. Eisenkraft
COHEN MILSTEIN SELLERS & TOLL LLP

Co-Lead Counsel for Plaintiffs

/s/ Daniel L. Brockett
Daniel L. Brockett
QUINN EMANUEL URQUHART & SULLIVAN, LLP

Co-Lead Counsel for Plaintiffs

Application GRANTED.

The deadlines for Plaintiffs to move for initial and final distribution are hereby ADJOURNED *sine die*. Plaintiffs are instead directed to provide status updates to the Court every two weeks on the issues raised above, including a proposal for an updated motion schedule, beginning on or before **August 10, 2026**.

Dated: July 29, 2026
New York, New York

SO ORDERED.

Katherine Polk Failla

HON. KATHERINE POLK FAILLA
UNITED STATES DISTRICT JUDGE