

March 16, 2020

Via ECF

Honorable Lorna G. Schofield
U.S. District Court
Southern District of New York
Thurgood Marshall Courthouse
40 Foley Square
New York, NY 10007

Re: *In re Foreign Exchange Benchmark Rates Antitrust Litigation*
Case No. 1:13-cv-07789-LGS

Dear Judge Schofield:

The parties write regarding the COVID-19 pandemic and its impact on the operative pretrial schedule in this case. In addition to the threat to public health, COVID-19 has caused, and will likely cause, further widespread disruptions of air travel. The parties are currently engaged in both expert and fact discovery that requires air travel both domestically and abroad. In light of COVID-19's threat to health and disruption of travel, the parties respectfully request that the Court amend the Fifth Amended Civil Case Management Plan and Scheduling Order (ECF No. 1383) to extend all deadlines by nine weeks. By May 14, 2020, the parties propose to submit a special joint status letter to apprise the Court of the need for any further schedule modifications.

The parties are currently in the middle of expert discovery. On January 23, Plaintiffs served their three expert merits reports. Defendants deposed Plaintiffs' experts. On March 12, Defendants served their four merits reports. Under the current schedule, Plaintiffs are required to depose Defendants' four experts by April 2. *Id.* at 8. Plaintiffs' reply reports are due by April 12. *Id.*

The parties are also conducting fact depositions both in the United States and abroad with a goal of completing them by June 30 (the deadline for substantial completion of discovery). Plaintiffs have scheduled two depositions for later this month in New York with a plan to schedule several more depositions in the United States by the end of April or May. Plaintiffs also have four depositions scheduled in London between April 1 and May 21. Two additional witnesses have agreed to voluntarily appear for depositions in London. Plaintiffs are pursuing several more depositions abroad with a goal of completing them by June 30.

In light of the nature of the case, depositions have been well attended. Attendees include the witness, the witnesses' counsel, the court reporter, videographer, Plaintiffs' counsel, Defendants' counsel, the examiner (if under English order), and various counsel for Settling Defendants (some in person, some telephonically).¹ Not surprisingly, counsel use air travel to attend depositions.

¹ Plaintiffs are exploring the option of conducting certain depositions by video conference. Deposition by video may work for certain types of depositions, *e.g.*, Fifth Amendment depositions, but is less useful when a witness offers substantive testimony.

Honorable Lorna G. Schofield
 March 16, 2020
 Page 2

The federal government has begun to restrict certain air travel, including to the United Kingdom, and may put additional restrictions in place. The parties are concerned that current (and future) air travel restrictions may either: (1) make exceedingly difficult or outright prohibit travel to attend these depositions; and/or (2) leave counsel stranded abroad or quarantined upon return. And, of course, underlying it all is the health threat posed by COVID-19.

Accordingly, the parties respectfully request a nine-week extension of the schedule and ask the Court to modify its Fifth Amended Scheduling Order to extend all deadlines by nine weeks as follows:

| Current Deadline | Action | New Deadline |
|-------------------------|--|---|
| 4/2/20 | Depositions of defendants' experts | 6/4/20 |
| 4/16/20 | Reply expert reports | 6/18/20 |
| 6/30/20 | Fact discovery substantially complete | 9/1/20 |
| 7/16/20 | Pre-motion conference for dispositive motions (with pre-motion letters due 14 days in advance) | After substantial completion of fact discovery, as set by Court |

This extension will allow the parties to postpone pending depositions to protect health and minimize travel while the parties assess the ongoing developments related to COVID-19. The parties agree they will suffer no prejudice from this extension. The parties only make this request in light of the exceptional circumstances at hand.

By May 14, 2020, the parties will submit a joint special status letter addressing whether any further modifications of the schedule are necessary.

Respectfully submitted,

SCOTT+SCOTT ATTORNEYS
 AT LAW LLP

HAUSFELD LLP

s/ Christopher M. Burke
 Christopher M. Burke
 600 W. Broadway, Suite 3300
 San Diego, CA 92101
 Telephone: 619-233-4565
 cburke@scott-scott.com

s/ Michael D. Hausfeld
 Michael D. Hausfeld
 1700 K Street, NW, Suite 650
 Washington, DC 20006
 Telephone: 202-540-7200
 mhausfeld@hausfeld.com

Attorneys for Plaintiffs

CAHILL GORDON & REINDEL LLP

s/ Jason M. Hall
 David G. Januszewski
 Herbert S. Washer

Honorable Lorna G. Schofield

March 16, 2020

Page 3

Elai Katz

Jason M. Hall

Sheila C. Ramesh

80 Pine Street

New York, NY 10005

Telephone: 212-701-3000

djanuszewski@cahill.com

hwascher@cahill.com

ekatz@cahill.com

jhall@cahill.com

sramesh@cahill.com

Attorneys for Defendants

*Credit Suisse Group AG, Credit Suisse AG,
and Credit Suisse Securities (USA) LLC*