

EXHIBIT 4

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

IN RE: BANK OF NOVA SCOTIA
SPOOFING LITIGATION

Civil Action No. 3:20-11059 (MAS) (RLS)

PRELIMINARY PLAN OF ALLOCATION AND DISTRIBUTION

ADMINISTRATIVE PROCEDURES

1. Subject to Court approval, the proceeds of the Net Settlement Fund will be paid to Authorized Claimants who or which submit valid Proof of Claim and Release forms (“Claim Forms”) by the claims filing deadline set by the Court (“Claims Deadline”) or as otherwise approved by the Court. This section discusses the administrative procedures that will apply to determine eligibility.

2. Each Settling Class Member that wishes to receive proceeds from the Net Settlement Fund must submit a Claim Form and provide pertinent information that will be used to determine eligibility to receive a distribution from the Net Settlement Fund. Settling Class Members will also be asked to provide such data, documents, and other proof as may be required by the Settlement Administrator to verify the Precious Metals Futures and Options on Precious Metals Futures transactions identified on the Claim Form. Each Claim Form is to be signed under the penalty of perjury.

3. Following receipt of each Claim Form, the Settlement Administrator will issue a confirmation receipt to the Claimant.

4. The Settlement Administrator will review each Claim Form to determine whether the Claimant is a Settling Class Member. Claims submitted by Claimants who or which are not Settling Class Members will be rejected.

5. The Settlement Administrator will review each Claim Form to determine whether the Claim Form is submitted in accordance with the Settlement and Orders of the Court. Claims that are not submitted in accordance with the Settlement and Orders of the Court will be rejected following exhaustion of reasonable efforts to cure any defects.

CALCULATION OF TRANSACTION CLAIM AMOUNTS

6. The Class eligible under the Settlement to receive a portion of the Net Settlement Fund includes all Persons and entities wherever located that purchased or sold any Precious Metals Futures or Options on Precious Metals Futures on the Commodity Exchange Inc. (“COMEX”) or the New York Mercantile Exchange (“NYMEX”) from January 1, 2008 through July 31, 2016 (the “Class Period”). Excluded from the Settlement Class are Defendants, their officers and directors, management, employees, subsidiaries, and affiliates. Also excluded from the Settlement Class is the Judge presiding over this Action, his or her law clerks, spouse, any other person within the third degree of relationship living in the Judge’s household, the spouse of such person, and the U.S. government.

- a. “Precious Metals Futures” means (i) COMEX Gold Futures; (ii) COMEX Silver Futures; (iii) NYMEX Platinum Futures; and (iv) NYMEX Palladium Futures.
- b. “Options on Precious Metals Futures” means any option on Precious Metals Futures.

7. For each Precious Metals Futures transaction, Claimants must provide the following information for each of their individual transactions: (a) the specific contract traded (*e.g.*, GCJ3 or April 2013 Gold Futures); (b) trade date (*e.g.*, February 13, 2013); (c) the volume of contracts traded (*e.g.*, 5); and (d) the price of the futures contract in U.S. dollars per troy ounce (*e.g.*, \$1,647.00).¹

¹ For Class Members whose records do not include the purchase price of the futures contract, the Settlement Administrator will apply the contract price as of the close of business on the trade date. Class Members can leave this field blank.

8. For each Options on Precious Metals Futures transaction, Claimants must provide the following information for each of their individual transactions; (a) the specific contract traded (e.g., OGI3 or Option on Gold Futures expiring in April); (b) trade date (e.g., February 13, 2013); (c) the volume of contracts traded (e.g., 1); (d) the price of the futures contract (e.g., \$1,647.00); (e) option type (i.e., call or put); (f) option expiry type (e.g., American Option); (g) option strike price (e.g., \$1,650.00); (h) option premium (e.g., \$5.80); and (i) option settlement date, also referred to as the option exercise date (e.g., March 26, 2013).

9. **Calculation of Instrument Amount.** Using transaction data which will be provided by Defendants, the Settlement Administrator will calculate an “Instrument Amount” for each transaction by a Class Member. The Instrument Amount is the product of three different factors: a “Volume Multiplier,” “Instrument Multiplier,” and a “Futures Contract Specification Multiplier.”

Instrument Amount

$$= \text{Volume Multiplier} \times \text{Instrument Multiplier} \\ \times \text{Futures Contract Specification Multiplier}$$

10. Each of these multipliers will be determined based on Class Plaintiffs’ allegations, current publicly available information concerning Precious Metals Futures and Options on Precious Metals Futures, and those used in other court-approved claims procedures in other precious metals spoofing matters.

11. **Volume Multiplier.** The Volume Multiplier reflects the notional value of the transaction and is determined by first taking the product of (i) the number of futures contracts traded; (ii) the futures contract price, denominated in U.S. dollars per troy ounce (or in the case of options, the option premium); and (iii) the futures contract unit, denominated as troy ounces per

futures contract, and, then, dividing that product by a U.S. Dollar figure which will be updated in this plan following receipt and review of transactional data.²

Volume Multiplier

$$= (\text{Number of Contracts Traded} \times \text{Futures Price (or Option Premium)} \times \text{FuturesContract Unit}) / (\text{U.S. Dollar figure})$$

12. **Instrument Multiplier.** The Instrument Multiplier will be as follows:
- a. Precious Metals Futures – Eligible Transactions in Precious Metals Futures will receive an Instrument Multiplier to be determined upon receipt and review of transactional data.
 - b. Options on Precious Metals Futures – Eligible Transactions in Options on Precious Metals Futures will receive an Instrument Multiplier to be determined upon receipt and review of transactional data.

13. **Futures Contract Specification Multiplier.** The Futures Contract Specification Multiplier accounts for the impact of Defendants’ spoofing on Precious Metals Futures contracts. The application of the Futures Contract Specification Multipliers is intended to facilitate a fair, reasonable, and efficient allocation of the Net Settlement Fund for purposes of this Action, and not intended to be or reflect the total damages that could have been sought had the litigation gone to trial or the appropriate methodology to apply to determine total damages. Lead Counsel are currently working with their experts to create a table with calculated multipliers for specified date ranges on various Precious Metals Contracts. The calculations will be based on the results of

² Plaintiffs will provide an update to the claim calculation figures on the case website upon review and receipt of transactional data and will submit an Updated Plan of Allocation and Distribution upon the filing of a motion for final approval of settlement.

spoofing detection models designed by Lead Counsel’s experts and applied to CME and BNS’s Precious Metals Futures datasets collected by Lead Counsel and provided to Class Plaintiffs by BNS.

14. The Settlement Administrator will calculate an Instrument Amount for each transaction by a Class Member and sum the Instrument Amounts to determine the Class Member’s “Transaction Claim Amount.” **The Transaction Claim Amount is not the Claimant’s payment amount.**

15. The Net Settlement Fund will be distributed to each Class Member based on their *pro rata* fraction of the Class Member’s Transaction Claim Amount divided by the total of all Transaction Claim Amounts.

Payment Amount

$$= \text{Net Settlement Fund} \times (\text{Transaction Claim Amount} / \text{Total of all Transaction Claim Amounts})$$

16. The exception to this will be Class Members whose expected distribution based on their *pro rata* fraction is less than the costs of administering the Claim. These Class Members will receive a Minimum Payment Amount in an amount, to be determined after the Claim Forms are reviewed, calibrated to ensure that a minimal portion of the Net Settlement Fund is reallocated towards Authorized Claimants receiving the Minimum Payment Amount. After determining the portion of the Net Settlement Fund that will be used to make the Minimum Payment Amounts, the remainder of the Net Settlement Fund will be reallocated *pro rata* among the remaining Class Members.

AUDITS

17. By submitting a Claim Form, a Class Member agrees to furnish such additional information as the Settlement Administrator or the Court may require. Further, by submitting a Claim Form, a Class Member is swearing to the truth of the statements contained in it and, if applicable, the genuineness of the data and documents attached thereto, subject to penalty of perjury under the laws of the United States of America. The making of false statements or the submission of forged or fraudulent documentation will result in the rejection of a claim and may subject the filer to civil liability or criminal prosecution.

18. The Settlement Administrator may request any Class Member, as deemed appropriate by the Settlement Administrator, who files a Claim Form to provide documentation to support certain transactions or any other aspect of the claim submission. Even if the Class Member provided a letter/affidavit attesting to the truth and accuracy of the data and claim overall, the Settlement Administrator may require specific documentary evidence (statements, confirmations, or the equivalent) to independently verify the details of the transactions and/or other aspects of the claim submission. Failure to comply with such an audit request will result in rejection of the claim.

COURT REVIEW

19. All proceedings with respect to the administration, processing, and determination of claims, and the determination of all disputes relating thereto, including disputed questions of law and fact with respect to the validity of the claims and information on the Claim Forms, shall be subject to the jurisdiction of the Court. To the extent the Settlement Administrator rejects a Claim Form, either in whole or in part, the Claimant will be advised in writing of the reasons for the rejection and that the Claimant will have an opportunity to cure any deficiencies or seek Court review of the Settlement Administrator's rejection. All Claimants expressly waive trial by jury (to

the extent any such right may exist) and any right of appeal or review with respect to the Court's determination.

DISTRIBUTION

20. After the Effective Date of the Settlement, and once the Settlement Administrator has determined the amounts of all Authorized Claimants' distributions under this Distribution Plan, Lead Counsel will apply to the Court for an order to distribute the Net Settlement Fund.

21. Should there be any balance remaining in the Net Settlement Fund (whether by reason of tax refunds, uncashed checks, or otherwise) after six months from the date of distribution of the Net Settlement Fund, or as reasonably soon thereafter, the Settlement Administrator shall, if logically feasible and economically justifiable, reallocate such balances among Authorized Claimants in an equitable fashion.

DATED: November 2, 2022

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