

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

IN RE: BANK OF NOVA SCOTIA
SPOOFING LITIGATION

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

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

TO: All persons and entities that purchased or sold any COMEX Gold Futures contract, COMEX Silver Futures contract, NYMEX Platinum Futures contract, or NYMEX Palladium Futures contract (together “Precious Metals Futures”), or any option on those futures contracts (“Options on Precious Metals Futures”), during the period of at least January 1, 2008 through at least July 31, 2016 (the “Class Period”).

Please read this Notice carefully. This is not junk mail, an advertisement, or a solicitation from an attorney. You have not been sued. This Notice has been authorized by the United States District Court for the District of New Jersey and contains important information as to your rights and options to participate in a proposed class action settlement, make a claim for payment from the settlement, or elect not to be included in the settlement. To claim your share of the settlement, you MUST electronically submit your proof of claim and release form (“Claim Form”) on or before _____ or mail your claim form to the address in Question 11 so that it is postmarked no later than _____.

Your legal rights will be affected regardless of whether or not you act. A Fairness Hearing Is scheduled for _____. Further information is available below.

Please do not contact the Court regarding this Notice. Inquiries concerning this Notice, the Claim Form, or any other questions by Class Members should be directed to:

Bank of Nova Scotia Spoofing Settlement

c/o A.B. Data, Ltd.

P.O. Box 53217

Milwaukee, WI 53217

If you are a brokerage firm, futures commission merchant, nominee or other person or entity who or which entered into Precious Metals Futures contracts or Options on Precious Metals Futures contracts during the Class Period for the beneficial interest of persons or organizations other than yourself, you are requested to, WITHIN SEVEN (7) DAYS OF YOUR RECEIPT OF THIS NOTICE, either: (i) provide to A.B. Data, Ltd. (the “Settlement Administrator”) the name and last known address of each person or organization for whom or which you made such Precious Metals Futures contracts or Options on Precious Metals Futures contracts transactions during the Class

Period; or (ii) request from the Settlement Administrator sufficient copies of the Notice to forward directly to beneficial owners of the Precious Metals Futures contracts or Options on Precious Metals Futures contracts transactions. All communications regarding the foregoing should be addressed to the Settlement Administrator at the address listed above.

INTRODUCTION

You are receiving this Notice upon request or because records indicate that you may have traded one or more Precious Metals Futures contracts or Options on Precious Metals Futures contracts during the Class Period and may be a Class Member in this Action.

The purpose of this Notice is to inform you of a proposed settlement in this Action (the “Settlement”) with Defendants Bank of Nova Scotia, Scotia Capital (USA) Inc., Scotia Holdings (US), Inc., and The Bank of Nova Scotia Trust Company of New York (collectively referred to as the “Bank of Nova Scotia”) and Corey Flaum (“Flaum” and, collectively with the Bank of Nova Scotia, “Defendants”). Class Plaintiffs entered into the Settlement Agreement with Defendants on November 2, 2022.

Class Plaintiffs allege that Defendant Bank of Nova Scotia and four of the Bank’s former precious metals traders (including defendant Corey Flaum) unlawfully and intentionally manipulated the prices of Gold Futures contracts and Silver Futures contracts traded on the COMEX and Platinum Futures contracts and Palladium Futures contracts traded on the NYMEX during the Class Period in violation of the Commodity Exchange Act, 7 U.S.C. §§ 1, *et seq.* (the “CEA”) and the common law.

The Court has preliminarily approved the Settlement with Defendants. To resolve all Released Claims against all Released Parties, Defendants have agreed to pay a total of \$6.6 million (the “Settlement Amount”). Class Members who or which do not opt out of the Settlement will release their claims against all Defendants in the Action.

The below table contains a summary of your rights and options regarding the Settlement. **Your legal rights will be affected whether or not you act.** More detailed information about your rights, options, and deadlines can be found in the Settlement Agreement and Distribution Plan, which are available at www.bankofnovascotiaspoofingsettlement.com (the “Settlement Website”).

The Court has appointed the lawyers listed below (“Lead Counsel”) to represent you and the Settlement Class in this Action:

<p>Linda Nussbaum Nussbaum Law Group, P.C. 1211 Ave. of the Americas, 40th Floor New York, NY 10036 (917) 438-9189 lnussbaum@nussbaumpc.com</p>	<p>Patrick Coughlin Robbins Geller Rudman & Dowd, LLP 655 West Broadway Suite 1900 San Diego, CA 92101 (619) 231-1058 pjc@rgrdlaw.com</p>	<p>Christopher Burke Scott+Scott Attorneys at Law LLP 230 Park Avenue 17th Floor New York, NY 10169 (212) 223-6444 cburke@scott-scott.com</p>	<p>George Zelcs Korein Tillery LLC 205 North Michigan Plaza Suite 1950 Chicago, IL 60601 (312) 641-9750 gzelcs@koreintillery.com</p>
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Your rights and options and the deadlines to exercise them are explained in this Notice. The capitalized terms used in this Notice are explained or defined below or in the Settlement

Questions? Visit www.BankofNovaScotiaSpoofingSettlement.com, email info@BankofNovaScotiaSpoofingSettlement.com, or call toll free at 1-877-1727.

Agreement, which is available on the Settlement Website: www.bankofnovascotiaspoofingsettlement.com

Please visit the Settlement Website regularly for updates relating to the Settlement.

AN OVERVIEW OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:

<p>DO NOTHING</p>	<p>If you do nothing in connection with this Settlement, you will receive no payment from the Settlement <i>and</i> you will be bound by past and any future Court rulings, including rulings on the Settlement, if approved, and the settlement release. <i>See</i> question 17.</p>
<p>SUBMIT A CLAIM FORM POSTMARKED (IF MAILED), OR ONLINE, NO LATER THAN XXXX, XX XXXX</p>	<p>The only way to receive your share of the Net Settlement Fund is to electronically submit a timely and valid Claim Form to the Settlement Administrator by no later than _____, or to mail your completed Claim Form so that it is postmarked no later than _____. <i>See</i> question 11.</p>
<p>EXCLUDE YOURSELF FROM THE SETTLEMENT CLASS BY SUBMITTING A WRITTEN REQUEST FOR EXCLUSION SO THAT IT IS RECEIVED NO LATER THAN XXXX, XX XXXX</p>	<p>If you wish to exclude yourself from the Settlement, you must submit by U.S. first class mail (or, if sent from outside the U.S., by a service that provides for guaranteed delivery within five (5) or fewer calendar days of mailing) or deliver a written request to the Settlement Administrator so that it is received by _____. If you exclude yourself, you will not be bound by the Settlement, if approved, or settlement release, and you will not be eligible for any payment from the Settlement. <i>See</i> questions 19-23.</p>
<p>OBJECT TO THE SETTLEMENT BY SUBMITTING A WRITTEN OBJECTION SO THAT IT IS RECEIVED NO LATER THAN XXXX, XX, XXXX</p>	<p>If you wish to object to the Settlement, you must file a written objection with the Court and serve copies on Lead Counsel and Defendants’ Counsel so that it is received by _____. You must be and remain within the Settlement Class in order to object. <i>See</i> questions 23 and 24.</p>
<p>PARTICIPATE AT THE FAIRNESS HEARING</p>	<p>You may ask the Court for permission to speak about the Settlement at the Fairness Hearing, which may be held remotely by audio teleconference, by including such a request in your written objection, which you must file with the Court and serve on Lead Counsel and Defendants’ Counsel so that it is received by _____. The Fairness</p>

Questions? Visit www.BankofNovaScotiaSpoofingSettlement.com, email info@BankofNovaScotiaSpoofingSettlement.com, or call toll free at 1-877-1727.

	Hearing is scheduled for _____. <i>See</i> questions 27-29.
APPEAR THROUGH AN ATTORNEY	You may enter an appearance through your own counsel at your own expense. <i>See</i> question 29.

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BASIC INFORMATION

1. What Is A Class Action Lawsuit?

A class action is a lawsuit in which one or more persons (representative plaintiffs) sue not only for themselves, but also for other people who have similar claims against the defendants. These similarly situated persons are referred to individually as class members, and collectively, as a class. The representative plaintiffs, the court, and counsel appointed to represent the class each and all have a responsibility to make sure that the interests of all class members are adequately represented.

Importantly, class members are NOT individually responsible for payment of attorneys’ fees or litigation expenses. In a class action, attorneys’ fees and litigation expenses are paid from the settlement fund (or the court-awarded judgment amount) and must be approved by the court. If there is no recovery on behalf of the class, the attorneys do not get paid.

When a representative plaintiff enters into a settlement with a defendant on behalf of a class, such as in this Settlement with Defendants, the court will require that the members of the class be given notice of the settlement and an opportunity to be heard with respect to the settlement. The court then conducts a hearing (called a Fairness Hearing) to determine, among other things, if the settlement is fair, reasonable, and adequate.

Questions? Visit www.BankofNovaScotiaSpoofingSettlement.com, email info@BankofNovaScotiaSpoofingSettlement.com, or call toll free at 1-877-1727.

2. Why Did I Get This Notice?

You received this Notice either because you requested it or because records indicate that you may be a Class Member. As a potential Class Member, you have a right to know about the proposed Settlement with Defendants before the Court decides whether to approve the Settlement.

This Notice explains the Action, the Settlement, your legal rights, the benefits available, who is eligible for those benefits, and how you can apply to receive your portion of these benefits if you are eligible. The purpose of this Notice is also to inform you of the Fairness Hearing to be held by the Court on _____ to consider the fairness, reasonableness, and adequacy of the Settlement and Distribution Plan and to consider requests for awards of attorneys' fees, litigation expenses and costs, and any Service Awards for Class Plaintiffs from the Settlement Fund.

3. What Are The Definitions Used In This Notice?

This Notice incorporates by reference the definitions in the Stipulation and Agreement of Settlement (the "Settlement Agreement").

The Settlement Agreement and the Court's Preliminary Approval Order are posted on the Settlement Website. All capitalized terms used, but not defined, have the same meanings as in the Settlement Agreement and the Court's Preliminary Approval Order.

4. What Is This Action About?

Class Plaintiffs allege that Defendants (Bank of Nova Scotia and futures traders that Bank of Nova Scotia employed, including defendant Flaum) unlawfully and intentionally manipulated the prices of Precious Metals Futures contracts traded on the COMEX and/or the NYMEX and Options on Precious Metals Futures contracts from at least January 1, 2008 through at least July 31, 2016 (the "Class Period") in violation of the Commodity Exchange Act, 7 U.S.C. §§ 1, *et seq.* (the "CEA") and the common law.

Defendants allegedly manipulated the prices of Precious Metals Futures contracts and Options on Precious Metals Futures contracts using a manipulative technique called "spoofing," whereby they placed orders for Precious Metals Futures contracts that they never intended to execute, then canceled them prior to execution in order to send false supply and demand signals to the market. Defendants allegedly caused artificial prices in Precious Metals Futures contracts and Options on Precious Metals Futures contracts throughout the Class Period. This false pricing information allegedly caused the prices of Precious Metals Futures contracts and Options on Precious Metals Futures contracts to move in a direction that was favorable to Defendants' trading positions but harmful to Class Members. Class Plaintiffs allege that they transacted in Precious Metals Futures and Options on Precious Metals Futures hundreds of times during the Class Period, including on days identified as examples of spoofing in regulatory filings against Defendants.

Defendants maintain that they have good and meritorious defenses to Class Plaintiffs' claims and would prevail if the case were to proceed. Nevertheless, to settle the claims in this lawsuit, and thereby avoid the expense and uncertainty of further litigation, Defendants have agreed to pay a total of \$6.6 million (the "Settlement Amount") in cash for the benefit of the proposed Settlement

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Class. If the Settlement is approved, the Settlement Amount plus interest earned from the date it was established (the “Settlement Fund”), minus any Taxes, the reasonable costs of Class Notice and administration, any Court awarded attorneys’ fees, litigation expenses and costs, Service Awards for Class Plaintiffs, and any other costs or fees approved by the Court (the “Net Settlement Fund”) will be divided among all Class Members who file timely and valid Claim Forms.

If the Settlement is approved, the Action will be resolved against all Defendants. If the Settlement is not approved, the Bank of Nova Scotia and the other defendants will remain as defendants in the Action, and Class Plaintiffs will continue to pursue their claims against them.

5. What Is The History Of This Action?

On August 21, 2020, Plaintiffs Casey Sterk and Kevin Maher filed the initial class action complaint alleging the misconduct described above. *See* ECF No. 1. Thereafter, other plaintiffs filed similar and related actions concerning the same misconduct, and on October 29, 2020, the Court consolidated all of these related cases into this action. *See generally*, ECF No. 17. The Plaintiffs from these now consolidated actions filed a single amended consolidated complaint against Defendants on May 4, 2021. *See* ECF No. 31. Defendants filed motions to dismiss the consolidated complaint on June 18, 2021 and July 2, 2021, respectively, and briefing from both sides concluded on September 15, 2021. *See* ECF 38, 40, 43, 48-49. By order dated January 20, 2022, the Court converted Defendants’ motions to dismiss to motions for summary judgment on the issue of statute of limitations, i.e., whether Class Plaintiffs’ claims were timely brought. ECF No. 50. As part of the January 20, 2022 order, the Court indicated it would grant discovery on the timeliness issue and directed the Parties to file a letter with their respective positions as to the scope of that discovery. *Id.* The Parties thereafter requested and were granted several extensions of their time to file the discovery letter required by the Court so that they could attempt to resolve the case through mediation. *See generally* ECF Nos. 51-54, 57-60. Class Plaintiffs and Bank of Nova Scotia agreed to the selection of Jed Melnick of JAMS as Mediator. After receiving briefing from Class Plaintiffs and Bank of Nova Scotia, the Mediator held a full-day, in person mediation session, which concluded without reaching a settlement. Notwithstanding, Class Plaintiffs and Bank of Nova Scotia continued negotiating at arms’ length with the assistance of the Mediator. On or about July 28, 2022, they were able to reach an agreement in principle to resolve the case for \$6.6 million. On August 4, 2022, Class Plaintiffs and Defendants executed a binding settlement term sheet, and thereafter negotiated a formal Settlement Agreement that was executed on _____.

6. Why Is There A Settlement?

Class Plaintiffs and Lead Counsel believe that Class Members have been damaged by Defendants’ conduct. Defendants believe they have meritorious defenses to Class Plaintiffs’ allegations and believe that Class Plaintiffs’ claims would have either been rejected prior to trial, at trial (had Class Plaintiffs successfully certified a class and survived summary judgment motions), or on appeal. As a result, Defendants believe Class Plaintiffs would have received nothing if the litigation had continued to trial.

The Court has not decided in favor of either Class Plaintiffs or Defendants. Instead, the Parties reached a negotiated resolution of the Action. The Settlement allows both sides to avoid the risks

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and costs of lengthy litigation and the uncertainty of pre-trial proceedings, a trial, and appeals, and, if approved, will permit eligible Class Members who file timely and valid Claim Forms to receive some compensation, rather than risk ultimately receiving nothing. Class Plaintiffs and Lead Counsel believe the Settlement is in the best interest of all Class Members.

Defendants have agreed to pay a total of \$6.6 million in cash for the benefit of the proposed Settlement Class. If the Settlement is approved, the Net Settlement Fund will be divided among all Class Members who file timely and valid Claim Forms pursuant to the Distribution Plan.

If the Settlement is approved, the Action will be resolved against all Defendants. If the Settlement is not approved, the Bank of Nova Scotia and Individual Defendant Corey Flaum will remain as defendants in the Action, and Class Plaintiffs will continue to pursue their claims against them.

WHO GETS MONEY FROM THE SETTLEMENT

7. How Do I Know If I Am A Class Member?

In the Preliminary Approval Order, the Court preliminarily approved the following Settlement Class:

All persons and entities that purchased or sold any COMEX Gold Futures contract, COMEX Silver Futures contract, NYMEX Platinum Futures contract, or NYMEX Palladium Futures contract (together “Precious Metals Futures”), or any option on those futures contracts (“Options on Precious Metals Futures”), during the period of at least January 1, 2008 through at least July 31, 2016 (the “Class Period”).

Not everyone who fits this description will be a Class Member. Please see question 8 for a discussion of exclusions from the Settlement Class.

8. Are There Exceptions To Being Included In The Settlement Class?

Yes. You are not included in the Settlement Class if you are a Defendant or any parent, subsidiary, affiliate or agent of the Bank of Nova Scotia. In addition, the United States government is excluded from the Settlement Class.

9. I’m Still Not Sure If I Am Included

If you are still not sure whether you are included, you may ask for free help. You can call toll-free 1-877-388-1727 (if calling from outside the United States or Canada, call _____) or visit the Settlement Website, www.bankofnovascotiaspoofingsettlement.com for more information.

THE SETTLEMENT BENEFITS

10. What Does The Settlement Provide?

Defendants have paid \$6.6 million into a fund to be held for disbursement to the Settlement Class and to pay for Court-approved fees and expenses if the Settlement is approved. This is not a claims-

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made settlement, and Defendants are not involved in the development of the Distribution Plan for the Settlement. The Parties' expectation is that the Net Settlement Fund will be fully distributed to Settling Class Members.

The Settlement does not bar Class Members from filing victim impact statements with the DOJ to participate in the DOJ's victim compensation program, created in connection with the DOJ's deferred prosecution agreement with the Bank of Nova Scotia relating to criminal charges for conduct similar to that alleged in this Action. See <https://www.justice.gov/criminal-vns/bank-nova-scotia-deferred-prosecution-agreement-dpa>.

11. How Will I Get A Payment?

If you are a Class Member and do not exclude yourself, you are eligible to file a Claim Form to receive your share of money from the Net Settlement Fund. Claim Forms must be submitted online at the Settlement Website **on or before 11:59 p.m. Eastern Time** on _____, **OR** postmarked by _____ and mailed to:

Bank of Nova Scotia Spoofing Settlement

c/o A.B. Data, Ltd.

P.O. Box 53217

Milwaukee, WI 53217

Following the timely submission and receipt of your Claim Form, the Settlement Administrator will send you a "Confirmation of Claim Receipt," which will acknowledge receipt of your Claim and will inform you of important next steps.

Please keep all data and documentation related to your eligible Precious Metals Futures contracts and Options on Precious Metals Futures contracts. Having data and documentation may be important to substantiating your Claim Form.

If you do not file a Claim Form, you will not receive any payments under the Settlement.

12. How Much Will My Payment Be?

The amount of your payment will be determined by the Distribution Plan, if it is approved, or by such other plan of distribution that is approved by the Court. At this time, it is not known precisely how much each Authorized Claimant will receive from the Net Settlement Fund or when payments will be made. For more information on the Distribution Plan see question 13.

13. What Is The Distribution Plan?

The Distribution Plan is available for review on the Settlement Website: www.bankofnovascotiaspoofingsettlement.com. Changes, if any, to the Distribution Plan based on newly available data or information or any Court order will be promptly posted on the Settlement Website. Please check the Settlement Website for the most up-to-date information about the Distribution Plan.

Questions? Visit www.BankofNovaScotiaSpoofingSettlement.com, email info@BankofNovaScotiaSpoofingSettlement.com, or call toll free at 1-877-1727.

14. When Will I Received A Payment?

The Court will hold the Fairness Hearing on _____ to decide whether to approve the Settlement and Distribution Plan. Even if the Court approves the Settlement and Distribution Plan, there may be appeals after that. It can sometimes take a year or more for the appellate process to conclude.

Please be patient. Status updates will be posted on the Settlement Website

15. What Do I Have To Do After I File A Claim Form?

After you file a Claim Form, the Settlement Administrator will evaluate your Claim Form to determine if you have provided sufficient information to validate your membership in the Settlement Class and your claim. If the Settlement Administrator determines that your Claim Form is deficient or defective, it will contact you. If you subsequently provide information that satisfies the Settlement Administrator concerning the validity of your Claim Form, you will not have to do anything else. If any disputes cannot be resolved, Lead Counsel will submit them to the Court, and the Court will make a final determination of the validity of your Claim Form. Please keep all data and documentation related to your eligible transactions in Precious Metals Futures and Options on Precious Metals Futures. Having data and documentation may be important to substantiating your Claim Form.

16. What Am I Giving Up To Receive A Payment?

Unless you exclude yourself, you remain a Class Member. That means you can't sue, continue to sue, or be part of any other lawsuit about the Released Claims in this Action against the Defendants and any of the Released Parties. Upon the Effective Date of the Settlement, Class Plaintiffs and each of the Releasing Parties shall release and be deemed to release and forever discharge and shall be forever enjoined from prosecuting the Released Claims against the Released Parties.

The capitalized terms used in this paragraph are defined in the Settlement Agreement, Preliminary Approval Order, or this Notice. For easy reference, certain of these terms are copied below:

- “Released Parties” means Defendants, their predecessors, successors and assigns, their direct and indirect parents, subsidiaries and affiliates, and each of their respective current and former officers, directors, employees (including but not limited to, Flaum), managers, members, partners, agents (in their capacity as agents of Defendants), shareholders (in their capacity as shareholders of Defendants), attorneys, insurers, or legal representatives, and the predecessors, successors, heirs, executors, administrators, and assigns of each of the foregoing. As used in this provision, “affiliates” means agents, and entities controlling, controlled by, or under common control with a Released Party.
- “Releasing Parties” means each and every Class Plaintiff and each and every Settling Class Member on their own behalf and on behalf of their respective predecessors, successors and assigns, direct and indirect parents, subsidiaries and affiliates, and on behalf of their current and former officers, directors, employees, agents, principals, members, trustees, participants, representatives, fiduciaries, beneficiaries or legal representatives in

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their capacity as such, and the predecessors, successors, heirs, executors, administrators and assigns of each of the foregoing in their capacity as such. As used in this provision, “affiliates” means agents, and entities controlling, controlled by, or under common control with a Releasing Party.

- “Released Claims” means any and all manner of claims, causes of action, cross-claims, counter-claims, charges, demands, judgments, suits, obligations, debts, setoffs, rights of recovery, or liabilities for any obligations of any kind whatsoever (however denominated), whether class, derivative, or individual, in law or equity or arising under constitution, statute, regulation, ordinance, contract, or otherwise in nature, for fees, costs, penalties, fines, debts, expenses, taxes, attorneys’ fees, and damages, whenever incurred, known or unknown, suspected or unsuspected, asserted or unasserted, which Settling Class Members or any of them ever had, now has, or hereafter can, shall or may have, representatively, derivatively or in any other capacity, against the Released Parties arising from or relating in any way to the factual predicate of the Action or which were or could have been asserted in the Action.

Upon the effective date of the settlement, Defendants will also release Class Plaintiffs, the Settlement Class, and their respective attorneys and agents from all claims and causes of action of every nature and description, whether known or unknown, whether arising under federal, state, common or foreign law (including Fed. R. Civ. P. 11), that arise out of or relate in any way to the institution, prosecution, or settlement of the Action, except for claims relating to the enforcement of the settlement.

17. What If I Do Nothing?

You are automatically a member of a Settlement Class if you fit the Settlement Class description. However, if you do not submit a timely and valid Claim Form, you will not receive any payment from the Settlement. You will be bound by past and any future Court rulings, including rulings on the Settlement and release. Unless you exclude yourself, you will not be able to start a lawsuit, continue with a lawsuit, or be a part of any other lawsuit against the Defendants or any of the other Released Parties on the basis of the Released Claims. Please see question 16 for a description of the Released Claims.

18. What If I Do Not Want To Be In The Settlement Class?

If you are a Class Member, do not want to remain in the Settlement Class, and do not want a payment from the Settlement, then you must take steps to exclude yourself from the Settlement. This is also sometimes referred to as “opting out” of a class. See question 19.

If you act to exclude yourself from the Settlement Class of which you would otherwise be a member, you will be free to sue the Bank of Nova Scotia or any of the other Released Parties on your own for the claims being resolved by the Settlement. However, you will not receive any money from the Settlement, and Lead Counsel will no longer represent you with respect to any claims against the Bank of Nova Scotia.

Questions? Visit www.BankofNovaScotiaSpoofingSettlement.com, email info@BankofNovaScotiaSpoofingSettlement.com, or call toll free at 1-877-1727.

If you want to receive money from the Settlement, do not exclude yourself. You must file a Claim Form in order to receive any payment from the Settlement.

19. How Do I Exclude Myself?

You can exclude yourself by sending a written “Request for Exclusion.” You cannot exclude yourself by telephone or email. Your written Request for Exclusion must be mailed by U.S. first class mail (or, if sent from outside the U.S., by a service that provides for guaranteed delivery within _____ or fewer calendar days of mailing) or delivered so that it is received by _____, to:

Bank of Nova Scotia Spoofing Settlement

EXCLUSIONS

c/o A.B. Data, Ltd.

P.O. Box 173001

Milwaukee, WI 53217

and (a) state the name, address, and telephone number of the Person or entity seeking exclusion, and in the case of entities, the name and telephone number of the appropriate contact person; (b) state that such Person or entity requests to be excluded from the Settlement Class in the Action (*In re Bank of Nova Scotia Spoofing Litigation*, Case No. 3:20-cv-11059 (MAS) (RLS) (D.N.J.)); and (c) may provide one or more document(s) sufficient to prove membership in the Settlement Class, as well as proof of authorization to submit the Request for Exclusion if submitted by an authorized representative.

With respect to the kinds of documents that are requested under subsection (c) in the preceding paragraph, any Class Member seeking to exclude himself, herself or itself from the Settlement Class will be requested to and may opt to provide either: (i) one or more document(s) evidencing eligible trading in Precious Metals Futures and Options on Precious Metals Futures during the Class Period (including the type and number of contract(s) traded, and the date(s) and (if available) price(s) at which the position was acquired or sold), or (ii) such Person or entity’s tag50 ID(s) and an executed waiver and request to the CME Group (“CME Waiver”) to unmask such Person or entity’s account information for verification. A sample copy of the CME Waiver to be used by Class Members will be posted on the Settlement website, www.bankofnovascotiaspoofingsettlement.com. Any Request for Exclusion must be signed by such Person or entity requesting the exclusion or an authorized representative and include proof of authorization to submit the Request for Exclusion if submitted by an authorized representative. The Parties may seek leave of the Court to ask any Person or entity that seeks to be excluded from the settlement to provide documents sufficient to prove membership in the Settlement Class.

A Request for Exclusion that does not include all of the required information, does not contain the proper signature, is sent to an address other than the one designated above, or is not sent within the time specified shall be invalid and the person(s) filing such an invalid request shall be a Class Member and shall be bound by the Settlement, if approved.

Questions? Visit www.BankofNovaScotiaSpoofingSettlement.com, email info@BankofNovaScotiaSpoofingSettlement.com, or call toll free at 1-877-1727.

All persons who submit valid and timely Requests for Exclusion in the manner set forth above shall have no rights under the Settlement, shall not share in the distribution of the Net Settlement Fund, and shall not be bound by the Settlement. In addition, such persons will not be entitled to object to the Settlement or participate at the Fairness Hearing.

20. If I Do Not Exclude Myself, Can I Sue The Defendants And The Other Released Parties For The Same Thing Later?

No. Unless you exclude yourself from this Settlement, you give up any right to sue Defendants and the other Released Parties for the Released Claims that the Settlement resolves. If you decide to exclude yourself from this Settlement, your decision will apply to Defendants and the other Released Parties.

21. If I Exclude Myself, Can I Get Money From The Settlement?

No. You will not get any money from the Settlement if you exclude yourself.

22. If I Exclude Myself From The Settlement, Can I Still Object?

No. If you exclude yourself, you are no longer a Class Member and may not object to any aspect of the Settlement.

23. How Do I Tell The Court What I Think About The Settlement?

If you are a Class Member and you do not exclude yourself, you can tell the Court what you think about the Settlement. You can object to all or any part of the Settlement, Distribution Plan, and/or application for attorneys’ fees, payment of litigation expenses and costs, and any Service Awards for Class Plaintiffs. You can give reasons why you think the Court should approve them or not. The Court will consider your views. If you want to make an objection, you may enter an appearance in the Action, at your own expense, individually or through counsel of your own choice, by filing with the Clerk of United States District Court for the District of New Jersey a notice of appearance and your objection, and serving copies of your objection on Lead Counsel and Defendants’ Counsel such that it is received by _____ to the following email and physical addresses:

<i>Lead Counsel</i>	<i>Defendants’ Counsel</i>	
Christopher Burke Scott+Scott Attorneys at Law LLP <i>Co-Lead Counsel</i> 230 Park Avenue 17th Floor New York, NY 10169 (212) 223-6444 cburke@scott-scott.com	Jamie Dycus King & Spalding LLP <i>Attorneys for the Bank of Nova Scotia</i> 1185 Sixth Avenue New York, NY 10036 (212) 556-2211 jdycus@kslaw.com	Nicholas Lewin Krieger Kim & Lewin LLP <i>Attorneys for Corey Flaum</i> 500 Fifth Avenue 34th Floor New York, NY 10110 (212) 390-9559 nick.lewin@kklllp.com

Any Class Member who does not enter an appearance will be represented by Lead Counsel.

If you choose to object, you must file a written objection. You cannot make an objection by telephone or email. Your written objection must include: (i) the name, address, telephone number,

Questions? Visit www.BankofNovaScotiaSpoofingSettlement.com, email info@BankofNovaScotiaSpoofingSettlement.com, or call toll free at 1-877-1727.

and email address of the Person or entity objecting and must be signed by the Class Member (an attorney's signature is not sufficient); (ii) the name of the Action (*In re Bank of Nova Scotia Spoofing Litigation*, Case No. 3:20-cv-11059 (MAS) (RLS) (D.N.J.)); (iii) a statement of the Class Member's objection or objections, and the specific reasons for each objection, including any legal and evidentiary support the Class Member wishes to bring to the Court's attention; (iv) whether the objection applies only to the Class Member, a specific subset of the Settlement Class, or the entire Settlement Class; (v) documents sufficient to prove the Class Member's membership in the Settlement Class; (vi) a statement of whether you intend to participate at the Fairness Hearing, either in person or through counsel and, if through counsel, a statement identifying that counsel by name, address, telephone number, and email address; and (vii) a list of other cases in which you or your counsel has appeared either as an objector or counsel for an objector in the last five years. If you enter an appearance and desire to present evidence at the Fairness Hearing in support of your objection, you must also include in your written objection or notice of appearance the identity of any witnesses you may call to testify and any exhibits you intend to introduce into evidence at the hearing. Objectors may, in certain circumstances, be required to make themselves available for a deposition by any Party to take place within the Court's federal district in New Jersey or in the county of the objector's residence or principal place of business within _____ days of service of the objector's timely written objection.

If you do not timely and validly submit your objection, your views will not be considered by the Court. Check the Settlement Website, www.bankofnovascotiaspoofingsettlement.com for updates on important dates and deadlines relating to the Settlement.

24. What Is The Difference Between Objecting And Excluding Myself?

Objecting is telling the Court that you do not like something about the Settlement. You can object to the Settlement only if you remain a Class Member and do not exclude yourself from the Settlement. Excluding yourself from the Settlement is telling the Court that you do not want to be a part of the Settlement Class. If you exclude yourself, you have no right to object to the Settlement because it no longer affects you.

25. Do I Have A Lawyer In This Case?

The Court has appointed the lawyers listed below to represent you and the Settlement Class in this Action: Linda Nussbaum, Nussbaum Law Group, P.C., 1211 Ave. of the Americas - 40th Floor, New York, NY 10036, (917) 438-9189, lnussbaum@nussbaumpc.com; Patrick Coughlin, Robbins Geller Rudman & Dowd, LLP, 655 West Broadway - Suite 1900, San Diego, CA 92101, (619) 231-1058, pjc@rgrdlaw.com; Christopher Burke, Scott+Scott Attorneys at Law LLP, 230 Park Ave. - 17th Floor, New York, NY 10169, (212) 223-6444, cburke@scott-scott.com; and, George Zelcs, Korein Tillery LLC, 205 North Michigan Plaza - Suite 1950, Chicago, IL 60601, (312) 641-9750, gzelcs@koreintillery.com.

These lawyers are called Lead Counsel. Lead Counsel may apply to the Court for payment of attorneys' fees and litigation expenses and costs from the Settlement Fund. You will not otherwise be charged for Lead Counsel's services. If you want to be represented by your own lawyer, you may hire one at your own expense

Questions? Visit www.BankofNovaScotiaSpoofingSettlement.com, email info@BankofNovaScotiaSpoofingSettlement.com, or call toll free at 1-877-1727.

26. How Will The Lawyers Be Paid?

To date, Lead Counsel have not been paid any attorneys' fees or received payment for any out-of-pocket costs. Any attorneys' fees and litigation expenses and costs will be awarded only as approved by the Court in amounts determined to be fair and reasonable. The Settlement provides that Lead Counsel may apply to the Court for an award of attorneys' fees and litigation expenses and costs out of the Settlement Fund. Prior to the Fairness Hearing, Lead Counsel will move for an award of no more than one-third of the Settlement Fund in attorneys' fees, plus payment of litigation expenses and costs and for interest on such attorneys' fees and litigation expenses and costs at the same rate as the earnings in the Settlement Fund, accruing from the inception of the Settlement Fund until the attorneys' fees and litigation expenses and costs are paid. Lead Counsel may allocate any award of attorneys' fees and payment of litigation expenses and costs among Plaintiffs' Counsel in proportion to their contributions to the case. Class Plaintiffs may also seek Service Awards from the Settlement Fund of up to \$2500.00 each.

This is only a summary of the request for attorneys' fees and litigation expenses and costs. Any motions in support of the requests will be available for viewing on the Settlement Website after they are filed. If you wish to review the motion papers, you may do so by viewing them at the Settlement Website, www.bankofnovascotiaspoofingsettlement.com.

The Court will consider the motion for attorneys' fees and litigation expenses and costs at or after the Fairness Hearing.

THE COURT'S FAIRNESS HEARING

27. When And Where Will The Court Decide Whether To Approve The Settlement?

The Court will hold the Fairness Hearing by _____ on _____ Eastern Time, from the United States District Court for the District of New Jersey, at the Clarkson S. Fisher Building & U.S. Courthouse, 402 East State Street, Courtroom 5W, Trenton, NJ 08608. Given the ongoing COVID-19 pandemic, the Fairness Hearing may be conducted remotely. Any Class Member who wants to participate at the Fairness Hearing can do so remotely by calling the following toll-free number _____ (if calling from outside the United States or Canada, call _____) on the date and time of the Fairness Hearing. The Fairness Hearing may be moved to a different date or time without notice to you; any changes to the date, time, or telephone number of the Fairness Hearing will be posted to the Settlement Website. Although you do not need to participate, if you plan to do so, you should check the Settlement Website for any changes concerning the Fairness Hearing. At the Fairness Hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. The Court will also consider whether to approve the Distribution Plan and requests for attorneys' fees, litigation expenses and costs, and any Service Awards for Class Plaintiffs. If there are any objections, the Court will consider them at this time. We do not know how long the Fairness Hearing will take or when the Court will make its decision. The Court's decision may be appealed.

Questions? Visit www.BankofNovaScotiaSpoofingSettlement.com, email info@BankofNovaScotiaSpoofingSettlement.com, or call toll free at 1-877-1727.

28. Do I Have To Participate At The Fairness Hearing?

No. Lead Counsel will answer any questions the Court may have. You are, however, welcome to participate at the Fairness Hearing. If you send an objection, you do not have to participate at the Fairness Hearing to talk about it. As long as you file and serve your written objection on time, the Court will consider it. You may also hire your own lawyer to participate, but you are not required to do so.

29. May I Speak At The Fairness Hearing?

You may ask the Court for permission to speak at the Fairness Hearing. If you want to participate at the Fairness Hearing, you may also enter an appearance in the Action at your own expense, individually, or through counsel of your own choice, by filing with the Clerk of Court a notice of appearance and your objection and serving copies of your objection on Lead Counsel and Defendants' Counsel at the addresses set forth in question 23, such that they are received no later than _____, or as the Court may otherwise direct. Any Class Member who does not enter an appearance will be represented by Lead Counsel. You may request to speak at the Fairness Hearing by telephone.

30. How Do I Get More Information?

The Court has appointed A.B. Data, Ltd. as the Settlement Administrator. Among other things, the Settlement Administrator is responsible for providing this Notice of the Settlement and processing Claim Forms.

This Notice summarizes the Settlement Agreement. More details are in the Settlement Agreement and Distribution Plan, which are available for your review at the Settlement Website, www.bankofnovascotiaspoofingsettlement.com. The Settlement Website also has answers to common questions about the Settlement, Claim Form, and other information to help you determine whether you are a Class Member and whether you are eligible for a payment. You may also call toll-free 1-877-388-1727 (if calling from outside the United States or Canada, call _____) or write to the Settlement Administrator at:

Bank of Nova Scotia Spoofing Settlement

c/o A.B. Data, Ltd.

P.O. Box 53217

Milwaukee, WI 53217

If this Notice reached you at an address other than the one on the mailing label, or if your address changes, please enter your current information online at the Settlement Website or send it to the Settlement Administrator at the address set forth above in the event the Settlement Administrator needs to contact you.

******* Please do not contact the Court or the Clerk's Office regarding this Notice or for additional information. *******

Questions? Visit www.BankofNovaScotiaSpoofingSettlement.com, email info@BankofNovaScotiaSpoofingSettlement.com, or call toll free at 1-877-1727.

DATED: _____

BY ORDER OF THE COURT

EXHIBIT D

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

IN RE: BANK OF NOVA SCOTIA
SPOOFING LITIGATION

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

SUMMARY NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

If you purchased or sold any COMEX Gold Futures contract, COMEX Silver Futures contract, NYMEX Platinum Futures contract, or NYMEX Palladium Futures contract, or any option on those futures contracts, during the period of at least January 1, 2008 through at least July 31, 2016, your rights may be affected by a pending class action settlement, and you may be entitled to portion of the settlement fund.

This Summary Notice is to alert you to a proposed Settlement totaling \$6,600,000 (the “Settlement Amount”) reached with The Bank of Nova Scotia (together with affiliated entities, “BNS”) in a pending class action (the “Action”).

The United States District Court for the District of New Jersey (the “Court”) authorized this Summary Notice and has appointed the lawyers listed below to represent the Settlement Class in this Action:

Linda Nussbaum Nussbaum Law Group, P.C. 1211 Ave. of the Americas, 40 th Floor New York, NY 10036 (917) 438-9189 lnussbaum@nussbaumpc.com	Patrick Coughlin Robbins Geller Rudman & Dowd, LLP 655 West Broadway Suite 1900 San Diego, CA 92101 (619) 231-1058 pjc@rgrdlaw.com	Christopher Burke Scott+Scott Attorneys at Law LLP 230 Park Avenue 17 th Floor New York, NY 10169 (212) 223-6444 cburke@scott-scott.com	George Zelcs Korein Tillery LLC 205 North Michigan Plaza Suite 1950 Chicago, IL 60601 (312) 641-9750 gzelcs@koreintillery.com
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Who is a member of the Settlement Class?

The proposed Settlement Class consists of all Persons and entities that purchased or sold any COMEX Gold Futures contract, COMEX Silver Futures contract, NYMEX Platinum Futures contract, NYMEX Palladium Futures contract (together “Precious Metals Futures”), or any option on those futures contracts (“Options on Precious Metals Futures”), during the period of at least January 1, 2008 through at least July 31, 2016 (the “Class Period”). Excluded from the Class are Defendants, their officers and directors, management, employees, subsidiaries, and affiliates. Also excluded from the 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.

“Precious Metals Futures” means Gold Futures contract(s), Silver Futures Contract(s), Platinum Futures contract(s) or Palladium Futures contract(s), and “Options on Precious Metals Futures” means any option on Precious Metals Futures.

The other capitalized terms used in this Summary Notice are defined in the detailed Notice of Proposed Class Action Settlement and in the Settlement Agreement, both of which are available at www.bankofnovascotiaspoofingsettlement.com.

If you are not sure if you are included in the Settlement Class, you can get more information, including the detailed Notice, at www.bankofnovascotiaspoofingsettlement.com or by calling toll-free 1-877-388-1727 (if calling from outside the United States or Canada, call _____).

What is this Action about and what does the Settlement provide?

Class Plaintiffs allege that Defendant Bank of Nova Scotia and four of the Bank’s former precious metals traders (including defendant Corey Flaum) unlawfully and intentionally manipulated the prices of Gold Futures contracts and Silver Futures contracts traded on the COMEX and Platinum Futures contracts and Palladium Futures contracts traded on the NYMEX during the Class Period in violation of the Commodity Exchange Act, 7 U.S.C. §§ 1, *et seq.* (the “CEA”) and the common law.

Defendants maintain that they have good and meritorious defenses to Class Plaintiffs’ claims and would prevail if the case were to proceed. Nevertheless, to settle the claims in this lawsuit, and thereby avoid the expense and uncertainty of further litigation, Defendants have agreed to pay a total of \$6.6 million (the “Settlement Amount”) in cash for the benefit of the proposed Settlement Class. If the Settlement is approved, the Settlement Amount plus interest earned from the date it was established (the “Settlement Fund”), minus any Taxes, the reasonable costs of Class Notice and administration, any Court awarded attorneys’ fees, litigation expenses and costs, Service Awards for Class Plaintiffs, and any other costs or fees approved by the Court (the “Net Settlement Fund”) will be divided among all Class Members who file timely and valid Claim Forms.

If the Settlement is approved, the Action will be resolved against all Defendants. If the Settlement is not approved, Bank of Nova Scotia and the other defendants will remain as defendants in the Action, and Class Plaintiffs will continue to pursue their claims against them.

Will I get a payment?

If you are a member of the Settlement Class and do not opt out, you will be eligible for a payment under the Settlement if you file a Claim Form. You may obtain more information at www.bankofnovascotiaspoofingsettlement.com or by calling toll-free 1-877-388-1727 (if calling from outside the United States or Canada, call _____).

Claim Forms must be postmarked by _____ or submitted online at www.bankofnovascotiaspoofingsettlement.com on or before **[time]** Eastern Time on **[date]**.

What are my rights?

If you are a member of the Settlement Class and do not opt out, you will release certain legal rights against Bank of Nova Scotia, the other defendants, and Released Parties as explained in the detailed Notice and Settlement Agreement, which are both available at www.bankofnovascotiaspoofingsettlement.com. If you do not want to take part in the proposed Settlement, you *must* opt out by **[Date]**. You may object to the proposed Settlement, the

Distribution Plan, and/or Lead Counsel's request for attorneys' fees, payment of litigation costs and expenses, and any Service Awards to Class Plaintiffs. If you want to object, you must do so by **[same date]**. Information on how to opt out or object is contained in the detailed Notice, which is available at www.bankofnovascotiaspoofingsettlement.com.

When is the Fairness Hearing?

The Court will hold the Fairness Hearing by _____ on _____ Eastern Time, from the United States District Court for the District of New Jersey, at the Clarkson S. Fisher Building & U.S. Courthouse, 402 East State Street, Room 2020, Trenton, NJ 08608. Given the current COVID-19 pandemic, the Fairness Hearing may be conducted remotely. At the Fairness Hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. The Court will also consider whether to approve the Distribution Plan and requests for attorneys' fees, litigation expenses and costs, and any Service Awards for Class Plaintiffs. If there are any objections, the Court will consider them at this time. Any Class Member who wants to participate at the Fairness Hearing can do so remotely by calling the following toll-free number 1-877-388-1727 (if calling from outside the United States or Canada, call _____) on the date and time of the Fairness Hearing. The Fairness Hearing may be moved to a different date or time without notice to you; any changes to the date, time, or telephone number of the Fairness Hearing will be posted to the Settlement Website. Although you do not need to participate, if you plan to do so, you should check the Settlement Website for any changes concerning the Fairness Hearing. We do not know how long the Fairness Hearing will take or when the Court will make its decision. The Court's decision may be appealed.

For more information, call toll-free 1-877-388-1727 (if calling from outside the United States or Canada, call _____) or visit www.bankofnovascotiaspoofingsettlement.com

******* Please do not contact the Court or the Clerk's Office regarding this Notice or for additional information. *******