

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is entered into between the United States of America acting through the United States Department of Justice, on the one hand, and The Royal Bank of Scotland Group plc, on the other hand. The United States and The Royal Bank of Scotland Group plc are collectively referred to herein as “the Parties.”

RECITALS

A. The United States Attorney’s Office for the District of Massachusetts conducted an investigation of the marketing, structuring, sponsorship, arrangement, underwriting, issuance, and sale of residential mortgage-backed securities (“RMBS”) by The Royal Bank of Scotland Group plc, as well as its current and former subsidiaries and affiliated entities (collectively “RBS”).

Based on that investigation, the United States alleges that there is an evidentiary basis to compromise potential legal claims by the United States against RBS for violations of federal laws in connection with the marketing, structuring, arrangement, underwriting, issuance, and sale of RMBS.

B. The United States sets forth its allegations and evidence in the Statement of Facts, attached hereto as Annex 1 and hereby incorporated.

C. All Parties desire to bring this matter to an expeditious and mutually acceptable resolution so as to avoid the delay, uncertainty, inconvenience, and expense of litigation.

D. The Parties have therefore determined and decided to enter into this Agreement, in mutual consideration of the promises, covenants, and obligations set forth below.

E. The Parties acknowledge that this Agreement is made without any trial or adjudication or judicial finding of any issue of fact or law, and is not a final order of any court or governmental authority. This Agreement does not constitute an admission by RBS of any facts or

liability or wrongdoing, including, but not limited to, any liability or wrongdoing with respect to any allegations that were or could have been raised. This Agreement also does not constitute a concession by the United States that its potential claims would not be well-founded, and nothing in this Agreement should be construed as, or deemed to constitute, approval, sanction, or authorization by the United States of any of RBS's actions or business practices, or of any event or action alleged in Annex 1. RBS disputes the contentions of the United States set forth in Annex 1.

TERMS AND CONDITIONS

1. **Payment.** RBS agrees to pay the amount of \$4.9 billion dollars (USD \$4,900,000,000) (hereafter the "Settlement Amount") to resolve the potential claims in connection with the Covered Conduct, as defined in Paragraph 2 below.

a. Within thirty (30) calendar days of receiving written payment processing instructions from the United States Attorney's Office, RBS shall pay the entire Settlement Amount by electronic funds transfer to the United States.

b. The entirety of the Settlement Amount is a civil monetary penalty recovered pursuant to the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("FIRREA"), 12 U.S.C. § 1833a.

2. **Covered Conduct.** "Covered Conduct" as used herein is defined as the creation, pooling, structuring, sponsorship, arranging, formation, packaging, marketing, underwriting, sale, or issuance prior to January 1, 2009 by RBS of the RMBS identified in Annex 2, attached and hereby incorporated. Covered Conduct includes representations, disclosures, or non-disclosures to RMBS investors and ratings agencies made in connection with the activities set forth above, where the representation, disclosure, or non-disclosure involves information about or obtained during the process of originating, acquiring, securitizing, underwriting, or servicing residential

mortgage loans included in the RMBS identified in Annex 2. Covered Conduct does not include:

(i) conduct relating to the origination of residential mortgages, except representations, disclosures, or non-disclosures to investors and ratings agencies in the RMBS listed in Annex 2 about the origination of, or about information obtained in the course of originating, such loans; (ii) the servicing of residential mortgage loans, except representations, disclosures, or non-disclosures to investors and rating agencies in the RMBS listed in Annex 2 and rating agencies about servicing, or information obtained in the course of servicing, such loans; or (iii) representations, disclosures, or non-disclosures made in connection with collateralized debt obligations, other derivative securities, or the trading of RMBS, except to the extent that the representations, disclosures, or non-disclosures are related to the offering materials for the underlying RMBS listed in Annex 2.

3. **Releases by the United States.** Subject to the exceptions set forth in Paragraph 4 (“Excluded Claims”), in consideration for and conditioned upon RBS’s full and timely payment of the Settlement Amount, and in further consideration for and conditioned upon the Cooperation described in Paragraph 7 (“Cooperation”), the United States fully and finally releases RBS, each of its current and former parents, subsidiaries and affiliated entities, and each of their respective successors and assigns (collectively, the “Released Entities”), from all civil claims that could have been asserted by the United States, as well as any other civil claim the United States has against the Released Entities for the Covered Conduct, where such civil claim arises under:

- a. FIRREA, 12 U.S.C. § 1833a;
- b. The False Claims Act, 31 U.S.C. §§ 3729, *et seq.*;
- c. The Program Fraud Civil Remedies Act, 31 U.S.C. §§ 3801, *et seq.*;
- d. The Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. §§ 1961, *et seq.*;

- e. The Injunctions Against Fraud Act, 18 U.S.C. § 1345;
- f. Common law theories of negligence, gross negligence, payment by mistake, unjust enrichment, money had and received, breach of fiduciary duty, breach of contract, misrepresentation, deceit, fraud, and aiding and abetting any of the foregoing; and
- g. Any other claim that the Civil Division of the Department of Justice has actual and present authority to assert and compromise pursuant to 28 CFR § 0.45(d).

4. **Reservations by the United States (Excluded Claims).** Notwithstanding the Releases in Paragraphs 3, or any other term(s) of this Agreement, the following claims are specifically reserved and not released by this Agreement:

- a. Any criminal liability;
- b. Any liability of an entity other than the Released Entities;
- c. Any liability of any individual;
- d. Any liability arising under Title 26 of the United States Code (the Internal Revenue Code);
- e. Any administrative liability, including the suspension and debarment rights of any federal agency, establishment, instrumentality, or corporation; and
- f. Any liability based upon obligations created by this Agreement.
- g. Any conduct other than the Covered Conduct.

5. **Clarification of Excluded Claims.** For the avoidance of doubt, nothing in this Agreement shall be construed as suggesting that the United States Department of Justice has the authority to release, or by this Agreement is releasing:

- a. Any private right of action that entities other than the United States may have against the Released Entities, regardless whether such claims have been asserted or not; or

b. Any liability to or claims of the Federal Deposit Insurance Corporation (including in its capacity as a corporation, receiver, or conservator) (the “FDIC”), the National Credit Union Administration (in its capacity as a corporation, receiver, or conservator), the Federal Housing Finance Agency, any of the Federal Home Loan Banks (the “FHLB”), the Federal Reserve Board and its member institutions, the Consumer Financial Protection Bureau, the Securities and Exchange Commission, the Department of Housing and Urban Development/Federal Housing Administration, the Department of Veterans Affairs, or the Federal Trade Commission.

6. Releases and Waivers by RBS.

a. The Released Entities hereby irrevocably release the United States, its agencies, establishments, and instrumentalities, together with their respective officers, officials, agents, employees, and servants, from any and all claims (including claims for attorney’s fees, costs, and expenses of every kind), however denominated, that the Released Entities have asserted, could have asserted, or may assert in the future against the United States, its agencies, establishments, instrumentalities, officers, officials, agents, employees, and servants, related to the Covered Conduct or the investigation thereof.

b. The Released Entities hereby irrevocably waive, and agree not to assert, any rights that they otherwise may have to seek any form of indemnification, reimbursement, or contribution from the FDIC in any capacity, including in its corporate capacity and its receiver and conservator capacities, for any payment that is a portion of the Settlement Amount.

c. The Released Entities hereby irrevocably waive and agree not to assert any defenses that they may have to any criminal prosecution or administrative action relating to the Covered Conduct as to which the defense is based in whole or in part on a contention that, under the Double Jeopardy Clause in the Fifth Amendment of the United States Constitution, or under

the Excessive Fines Clause in the Eighth Amendment of the United States Constitution, this Agreement bars a remedy sought in such criminal prosecution or administrative action.

d. The Released Entities hereby agree to separately determine and account for all Unallowable Costs for government contracting purposes, and not to charge any Unallowable Costs, directly or indirectly, to any contract that any of them may have with the United States, or with any agency, establishment, or instrumentality of the United States. For purposes of this provision, an “Unallowable Cost” is any cost (as defined in the Federal Acquisition Regulation, 48 C.F.R. § 31.205-47) incurred by or on behalf of the Released Entities or any of their present and former officers, directors, employees, shareholders, and agents, in connection with: any matters covered by this Agreement; the United States’ audit(s) and civil and criminal investigation(s) of the matters covered by this Agreement; the negotiation and performance of this Agreement; the Settlement Amount payment made pursuant to this Agreement; and the Released Entities’ investigation, defense, and corrective actions undertaken in response to the United States’ audit(s) and civil and criminal investigations of any matters covered by this Agreement, including any attorney’s fees and costs.

7. **Cooperation.** Subject to the limitation in Paragraph 8, until the date upon which the United States concludes and completes all investigations and any prosecution or litigation relating to or arising out of the Covered Conduct, whether or not they are concluded within the term of this Agreement, the Released Parties shall, subject to applicable laws or regulations:

a. Cooperate fully with the Department of Justice (including the Federal Bureau of Investigation) and any other agency designated by the Department of Justice regarding matters relating to or arising out of the Covered Conduct;

- b. Assist the Department of Justice in any investigation or prosecution or litigation relating to or arising out of the Covered Conduct by providing logistical and technical support for any meeting, interview, deposition or other sworn testimony, grand jury proceeding, or any trial or other court proceeding;
- c. Use their best efforts to secure the attendance and truthful statements or testimony of any current or former officer, director, agent, or employee of the Released Entities at any meeting, interview, deposition or sworn testimony, grand jury proceeding, or at any trial or other court proceeding regarding matters relating to or arising out of the Covered Conduct; and
- d. Provide the Department of Justice, upon request, all non-privileged information, documents, records, or other tangible evidence regarding matters relating to or arising out of the Covered Conduct about which the Department of Justice or any designated agency or designated person inquires.

8. The requirements set forth in Paragraph 7 shall not be construed to limit, restrict, or impair in any way, directly or indirectly, RBS's defense of any civil litigation brought by the FDIC or the FHLB against the Released Parties concerning RMBS investor claims relating to or arising out the Covered Conduct, including but not limited in:

- a. *Federal Deposit Ins. Corp. as Receiver for Citizens National Bank and Receiver for Strategic Capital Bank v. Bear Stearns Asset Backed Sec. I LLC, et al.*, No. 12-cv-4000 (S.D.N.Y.);
- b. *Federal Deposit Ins. Corp. as Receiver for Colonial Bank v. First Horizon Asset Sec. Inc., et al.*, No. 12-cv-6166 (S.D.N.Y.);
- c. *Federal Deposit Ins. Corp. as Receiver for Colonial Bank v. Citigroup Mortg. Loan Trust, et al.*, No. 03-cv-2012-901036.00 (Ala. Cir. Ct.);

- d. *Federal Deposit Ins. Corp. as Receiver for Guaranty Bank v. Merrill Lynch Pierce Fenner & Smith, Inc., et al.*, No. 14-cv-126 (W.D. Tex.);
- e. *Federal Deposit Ins. Corp. as Receiver for United Western Bank v. Banc of America Funding Corp, et al.*, No. 14-cv-418 (D. Colo.);
- f. *Federal Home Loan Bank of Boston v. Ally Financial, Inc, et al.*, Civil Action No. 11-1533-BLS1 (Sup. Ct. Mass.); and
- g. *Federal Home Loan Bank of Seattle v. RBS Securities Inc., et al.*, No. 09-2-46347-6 (Sup. Ct. Wash.).

Nor do the requirements set forth in Paragraph 7 apply to RBS's defense of any third-party discovery requests in any civil litigation brought by the FDIC or FHLB against someone other than the Released Parties concerning RMBS investor claims relating to or arising out of the Covered Conduct.

9. Miscellaneous Provisions.

- a. This Agreement is governed by, and shall be construed according to, the laws of the United States.
- b. The Parties agree that the exclusive jurisdiction and venue for any dispute relating to this Agreement or its construction is the United States District Court for the District of Massachusetts and further agree to submit to the jurisdiction of that court (including personal jurisdiction) for any dispute relating to this Agreement or its construction or enforcement.
- c. This Agreement is intended for the benefit of the Parties only and does not create any third-party rights.
- d. The Parties acknowledge that this Agreement is made without any trial or adjudication or judicial finding of any issue of fact or law, and is not a final order of any court or governmental authority.

e. The Parties shall bear their own legal and other costs, fees, and expenses incurred in connection with this matter, including those incurred in the preparation and performance of this Agreement.

f. The undersigned represent and warrant that they are fully authorized to execute this Agreement on behalf of the persons and entities indicated below. Each Party and signatory to this Agreement represents that it/he/she freely and voluntarily enters into this Agreement without any degree of duress or compulsion.

g. This Agreement, other than Annex 1 and Annex 2, shall be deemed to have been drafted by all Parties and shall not, therefore, be construed against any Party for that reason in any dispute.

h. This Agreement constitutes the complete and entire agreement between the Parties and may not be amended except by written consent of all of the Parties.

i. This Agreement may be executed in counterparts, each of which constitutes an original and all of which constitute one and the same Agreement. Facsimiles of signatures shall constitute acceptable, binding signatures for purposes of this Agreement.

j. This Agreement is binding on RBS's successors, transferees, heirs, and assigns.

10. **Disclosure.** All Parties agree that this Agreement may be made public in its entirety, and expressly consent to such release and disclosure.

11. **Effective Date.** This Agreement shall take effect on the date of signature of the last signatory to the Agreement.

For the United States of America:



CHAD A. READLER
Acting Assistant Attorney General
Civil Division
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

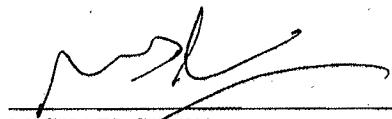
Dated: 8/13/18



ANDREW E. LELLING
United States Attorney
District of Massachusetts
1 Courthouse Way
Boston, Massachusetts

Dated: August 14, 2018

For The Royal Bank of Scotland Group plc:



MICHAEL SHAW
Chief Legal Officer and General Counsel
The Royal Bank of Scotland Group plc
280 Bishopsgate
London, EC2M 4RB
United Kingdom

Dated: 8/14/18