

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

BENJAMIN MICHAEL MERRYMAN, AMY
WHITAKER MERRYMAN TRUST, AND B
MERRYMAN AND A MERRYMAN 4TH
GENERATION REMAINDER TRUST,
individually and on behalf of all others
similarly situated,

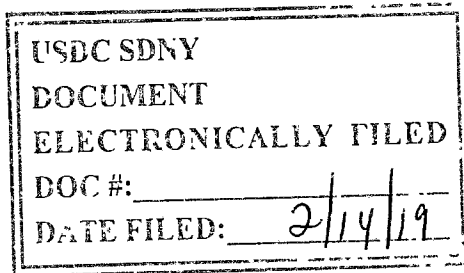
Plaintiffs,

v.

CITIGROUP, INC., CITIBANK, N.A., and
CITIGROUP GLOBAL MARKETS INC.,

Defendants.

Civil Action No. 1:15-cv-09185-CM-KNF



~~PROPOSED~~ ORDER APPROVING MODIFICATIONS TO NOTICE PLAN
AND SCHEDULE FOR APPROVAL OF SETTLEMENT

WHEREAS, a putative class action is pending in this Court captioned *Merryman et al. v. Citigroup, Inc. et al.*, 15-cv-09185-CM-KNF (S.D.N.Y.) (the “Litigation”);

WHEREAS, by its Order Preliminarily Approving Settlement and Providing for Notice dated September 4, 2018 (ECF No. 134) (“Preliminary Approval Order”), the Court, among other things, granted preliminary approval to the proposed settlement set forth in the Stipulation and Agreement of Settlement dated August 20, 2018 (the “Stipulation” or “Settlement”) and directed notice of the Settlement to the Class;

WHEREAS, in light of certain developments arising during the implementation of the notice plan approved by the Court’s Preliminary Approval Order, Plaintiffs have made a motion for an order that will approve modifications to the previously approved notice plan as well as the schedule for final approval of the Settlement as set forth in the Preliminary Approval Order;

WHEREAS, the Defendant does not oppose Plaintiffs' motion;

WHEREAS, the Court has read and considered: (a) Plaintiffs' Unopposed Motion for Approval of Modifications to Notice Plan and Schedule for Approval of Settlement, and the papers filed and arguments made in connection therewith; and (b) the record in the Litigation, and found good cause for entering the following Order.

NOW THEREFORE, IT IS HEREBY ORDERED:

1. **Incorporation of Definitions** – This Order hereby incorporates by reference the definitions in the Stipulation, and all capitalized terms, unless otherwise defined herein, shall have the same meanings as set forth in the Stipulation.

2. **Preliminary Approval Order** – Except as specifically provided herein, the Preliminary Approval Order is not altered.

3. **Modified Manner of Providing Mailed Notice to Registered Holders** – Notice of the Settlement and Final Approval Hearing shall be given to Registered Holder Damages Class Members by the Claims Administrator, under the supervision of Lead Counsel, as follows:

(a) beginning no later than twenty (20) business days after the date of entry of this Order (the "Modified Notice Date"), the Claims Administrator shall cause the Postcard Notice, substantially in the form attached hereto as Exhibit 1, to be mailed by first-class mail to Registered Holder Damages Class Members at the addresses set forth in the records of the Depository's transfer agent;¹

(b) contemporaneously with the mailing of the Postcard Notice, the Claims Administrator shall cause copies of the Notice and Claim Form (updated to reflect the modifications to the previously approved notice plan and revised dates and deadlines only) to be

¹ Each Postcard Notice will contain a unique Claim Number and PIN allowing Registered Holder Damages Class Members to access their holding and cash distribution information via a portal contained on the website www.CitibankADRSettlement.com.

posted on the website developed for the Settlement (www.CitibankADRSettlement.com), from which copies of the Notice and Claim Form can be downloaded, and will also update the homepage of the website to alert visitors regarding these updates; and

(c) not later than seven (7) calendar days prior to the Final Approval Hearing, Lead Counsel shall serve on Defendant's Counsel and file with the Court proof, by affidavit or declaration, of such mailing.

4. **Modified Manner of Providing Notice to Non-Registered Holders and Certain Current Holders** – Lead Counsel is hereby authorized to retain HF Media, LLC (“HF Media”) to supervise and administer the multi-media notice program in connection with the proposed Settlement (the “Multi-Media Notice Program”), as follows:

(a) beginning no later than ten (10) calendar days after the entry of this Order, HF Media shall commence the Multi-Media Notice Program as described in the Declaration of Jeanne C. Finegan, APR submitted to the Court on January 31, 2019, which will consist of banner and search advertisements (“Banner Ads”), in the form attached hereto as Exhibit 2, and a notice to be published in various newspapers and magazines (“Publication Notice”), in the form attached hereto as Exhibit 3;

(b) the Multi-Media Notice Program shall last at least sixty (60) calendar days; and

(c) not later than seven (7) calendar days prior to the Final Approval Hearing, Lead Counsel shall serve on Defendant's Counsel and file with the Court proof, by affidavit or declaration, of such Multi-Media Notice Program and the results thereof.

5. **Approval of Form and Content of Notice** – The Court (a) approves, as to form and content, the Postcard Notice, Banner Ads and Publication Notice, annexed hereto as Exhibits

1, 2 and 3, respectively, and (b) finds that the mailing and distribution of the Postcard Notice to Registered Holder Damages Class Members and the Multi-Media Notice Program to Non-Registered Damages Class Members and Current Holder Class Members substantially in the manner and form set forth in ¶¶3-4 of this Order (i) is the best notice practicable under the circumstances; (ii) constitutes notice that is reasonably calculated, under the circumstances, to apprise Class Members of the pendency of the Litigation, their right to exclude themselves from the Class, the effect of the proposed Settlement (including the Releases to be provided thereunder), Lead Counsel's motion for an award of attorneys' fees and reimbursement of Litigation Expenses (including Service Awards to Plaintiffs), their right to object to the Settlement, the Plan of Allocation and/or Lead Counsel's motion for attorneys' fees and reimbursement of Litigation Expenses, and their right to appear at the Final Approval Hearing; (iii) constitutes due, adequate and sufficient notice to all persons and entities entitled to receive notice of the proposed Settlement; and (iv) satisfies the requirements of Federal Rule of Civil Procedure 23, the Constitution of the United States (including the Due Process Clause), and all other applicable laws and rules. No Class Member shall be relieved from the terms of the proposed Settlement, including the Releases provided for therein, based solely upon the contention or proof that such Class Member failed to receive adequate or actual notice.

6. **Revised Date for Final Approval Hearing** – The Court's Final Approval Hearing will be held on July 12, 2019 at 10:30 a.m.² at the Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, New York, NY 10007. Notice of the Settlement and Final Approval Hearing shall be given to Class Members as set forth in ¶¶3-4 of this Order. The

² Plaintiffs respectfully request that the Court schedule the Final Approval Hearing no earlier than 135 days after the date of entry of this Order, so that the Multi-Media Notice Program can be fully completed and sufficient time provided for Class Members to object or request exclusion if they wish to do so.

Court may adjourn, or change the date and time of, the Final Approval Hearing without further notice to the Class.

7. **Schedule for Settlement Related Events** – The requirements and time for completing each of the following Settlement-related events set forth in the Preliminary Approval Order is not altered and remains as follow:

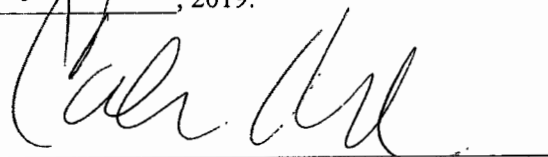
(a) any Request for Exclusion from the Class must be received no later than thirty five (35) calendar days prior to the Final Approval Hearing;

(b) any written objections to the Settlement, the Plan of Allocation and/or Lead Counsel's motion for attorneys' fees and reimbursement of Litigation Expenses as well as requests to appear at the Final Approval Hearing must be received no later than thirty five (35) calendar days prior to the Final Approval Hearing;

(c) Lead Counsel shall file and serve the opening papers in support of the proposed Settlement, the Plan of Allocation, and Lead Counsel's motion for an award of attorneys' fees and reimbursement of Litigation Expenses (including Service Awards to Plaintiffs) no later than forty nine (49) calendar days prior to the Final Approval Hearing; and reply papers, if any, shall be filed and served no later than seven (7) calendar days prior to the Final Approval Hearing; and

(d) Claim Forms must be postmarked no later than one hundred fifty (150) calendar days after the Modified Notice Date, unless otherwise ordered by the Court.

SO ORDERED this 14 day of February, 2019.



The Honorable Colleen McMahon
United States District Judge