IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

SARAH VALELLY, Individually and on Behalf of All Other Persons Similarly Situated, Plaintiff, v. MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED, Defendant.	Case No. 19-cv-07998-VEC ORDER GRANTING PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT, APPROVING FORM AND MANNER OF NOTICE, AND SETTING DATE FOR HEARING ON FINAL APPROVAL OF SETTLEMENT

WHEREAS, an action is pending before this Court titled *Valelly v. Merrill Lynch, Pierce, Fenner & Smith Inc.*, Case No. 19-cv-7998-VEC (S.D.N.Y.) (the "Action");

WHEREAS, on September 30, 2026, Sarah Valelly ("Plaintiff"), on behalf of herself and all other members of the Certified Class, on the one hand, and Merrill Lynch, Pierce, Fenner & Smith Incorporated ("Merrill" and, together with Plaintiff, the "Parties"), on the other hand, entered into a "Stipulation of Settlement" (the "Stipulation"), *see* Dkt. 397, in the above-entitled litigation, which is subject to review under Rule 23 of the Federal Rules of Civil Procedure and which, together with the exhibits thereto, sets forth the terms and conditions of the proposed settlement of the Action and the claims alleged, or that could have been alleged (as described further in the "Released Plaintiff's Claims"), in Plaintiff's Complaint, filed on August 27, 2019, and Amended Complaint, filed on February 5, 2021, on the merits and with prejudice (the "Settlement");

WHEREAS, the Court has reviewed and considered the Stipulation and the accompanying exhibits;

WHEREAS, the Parties to the Stipulation have consented to the entry of this Order; and

WHEREAS, all capitalized terms used in this Order that are not otherwise defined herein have the meanings defined in the Stipulation.

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. The Court has reviewed the Stipulation and does hereby preliminarily approve the Stipulation and the Settlement set forth therein and finds, pursuant to Rule 23(e)(1)(B)(i) of the Federal Rules of Civil Procedure, that it will likely be able to finally approve the Settlement under Rule 23(e)(2) as being fair, reasonable, and adequate to the Class, subject to further consideration at the Settlement Hearing described below. The Court further finds that the Settlement: (i) is the

result of good faith, extensive arm's-length and non-collusive negotiations; (ii) falls within a range of reasonableness warranting final approval; (iii) has no obvious deficiencies; and (iv) warrants notice of the proposed Settlement to Class Members and further consideration of the Settlement at the Settlement Hearing described below.

2. Consistent with the Court's prior Opinion & Order regarding class certification, *see* Dkt. 325, and the Stipulation, the Settlement applies to the class which consists of all persons who had one or more Merrill Edge retirement accounts with cash balances that were swept pursuant to the Retirement Asset Savings Program at any time during the period December 15, 2016 through March 15, 2020. Wolf Popper LLP, previously approved by the Court as Class Counsel, *see id.*, will remain in its role as such. For avoidance of doubt, all of the Court's prior findings with respect to the certification of the class and appointment of class counsel are incorporated herein by reference.

3. A hearing shall be held before this Court on **March 12, 2027, at 10:00 A.M.** (the "Settlement Hearing"), in Courtroom 20C of the Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, New York, NY 10007, to: (a) determine whether the proposed Settlement of the Action on the terms and conditions provided for in the Stipulation is fair, reasonable, and adequate to the Certified Class and should be approved by the Court; (b) determine whether a Judgment should be entered; (c) determine whether the proposed Plan of Allocation as described in the Notice (as defined below) should be approved; (d) determine Class Counsel's application for an award of attorneys' fees, a service award for Plaintiff in connection with her representation of the Certified Class, and Litigation Expenses; (e) hear any objections by Class Members to the Settlement, the Plan of Allocation, or the award of attorneys' fees, a service award for Plaintiff in connection with her representation of the Certified Class, and Litigation Expenses;

and (f) consider such other matters the Court deems appropriate. The Court may adjourn or change the date and time of the Settlement Hearing without further notice to the Certified Class.

4. The Court approves the form, substance, and requirements of the "Postcard Notice of Proposed Settlement and Motion for Attorneys' Fees and Expenses" (the "Postcard Notice"), and the "Email Notice of Proposed Settlement, and Motion for Attorneys' Fees and Expenses" (the "Email Notice"), substantially in the forms annexed hereto as Exhibits A-1 and A-2.

5. The Court approves the form of the "Summary Notice of Proposed Settlement, and Motion for Attorneys' Fees and Expenses" (the "Summary Notice"), substantially in the form annexed hereto as Exhibit A-3.

6. The Court approves the form of the "Long-Form Notice of Settlement, and Motion for Attorneys' Fees and Expenses" (the "Long-Form Notice"), substantially in the form annexed hereto as Exhibit A-4.

7. JND Legal Administration (the "Administrator") is hereby appointed to supervise and administer the notice procedure as more fully set forth below.

8. Merrill has advised that contact information for Class Members was already provided to the Administrator in connection with the notice of pendency campaign alerting Class Members of the February 26, 2026 Class Certification Order. Merrill will provide email and mailing address information that is current as of September 30, 2026 for all customers whose accounts remained active through 2026 within fourteen (14) calendar days of this Order. No later than **December 4, 2026** (the "Notice Date"), the Administrator shall cause a copy of the Email Notice to be emailed to all Class Members for whom Merrill provided a valid email address; a copy of the Postcard Notice mailed to all Class Members for whom Merrill provided a valid mailing address and for whom a valid email address is not available or for whom the email

containing the Email Notice is returned as undeliverable; and a copy of the Long-Form Notice to be posted on a case-specific website.

9. Within seven (7) calendar days of the Notice Date, the Administrator shall cause the Summary Notice to be transmitted over *PR Newswire*.

10. At least forty-five (45) calendar days prior to the Settlement Hearing, or **January 26, 2027**, Class Counsel shall serve Merrill's Counsel and file with the Court proof, by affidavit or declaration, of such mailing and publishing.

11. The Court finds that the form and content of the notice program described herein and the methods set forth herein for notifying the Certified Class of the Settlement and its terms and conditions, the Fee and Expense Application, and the Plan of Allocation meet the requirements of Rule 23 of the Federal Rules of Civil Procedure, and Due Process, constitute the best notice practicable under the circumstances, and shall constitute due and sufficient notice to all Persons entitled thereto.

12. All Class Members shall be bound by all determinations and judgments in the Action concerning the Settlement (including, but not limited to, the releases provided for therein) whether favorable or unfavorable to the Certified Class, regardless of whether such Persons obtain by any means any distribution from the Settlement Amount.

13. All Persons falling within the definition of the Certified Class were given the opportunity to be excluded from, or to "opt out" of, the Certified Class before the Parties entered into the Settlement. By agreement of the Parties, all such Persons will now be given another opportunity to be excluded from, or "opt out" of, the Certified Class. Any such Person seeking exclusion must validly request exclusion from the Certified Class (each such request, a "Request for Exclusion") pursuant to the directions set forth in the Long-Form Notice. Requests seeking

exclusion on behalf of more than one Class Member will be deemed invalid. All Persons who submit valid and timely Requests for Exclusion in the manner set forth in the Long-Form Notice shall have no rights under the Stipulation, shall not share in the distribution of the Settlement Amount, and shall not be bound by the Stipulation or the Final Judgment.

14. Within two (2) business days of receiving any Request for Exclusion, the Administrator shall deliver a copy of each such Request for Exclusion to Class Counsel and Merrill's Counsel. The Administrator shall also provide any written retractions of Requests for Exclusion within two (2) business days of receipt.

15. Any Class Member (or any other Person with standing to be heard) may appear at the Settlement Hearing and object if they have any reason why the proposed Settlement of the Action should not be approved as fair, reasonable, and adequate, why a judgment should not be entered thereon, why the Plan of Allocation should not be approved, why attorneys' fees, a service award for Plaintiff in connection with her representation of the Certified Class, and/or Litigation Expenses should not be awarded; provided that any such Class Member (or any other Person with standing to be heard) files objections and copies of any papers and briefs with the Clerk of the United States District Court for the Southern District of New York and mails copies thereof by U.S. mail to Wolf Popper LLP, Robert C. Finkel, 570 Lexington Avenue, New York, New York 10022; Davis Polk & Wardwell LLP, Lara Samet Buchwald, 450 Lexington Avenue, New York, New York 10017, no later than twenty-one (21) calendar days prior to the Settlement Hearing, or **February 19, 2027**. Any Class Member who does not make his, her, or its objection in the manner and by the date provided shall be deemed to have waived such objection and shall forever be foreclosed from making any objection to the fairness, reasonableness or adequacy of the proposed Settlement as incorporated in the Stipulation, to the Plan of Allocation as described in the

Stipulation and the Email Notice, Postcard Notice, Long-Form Notice, and Summary Notice (collectively referred to herein as the "Notice"), or to the award of fees, costs, and expenses to Class Counsel, or Plaintiff, unless otherwise ordered by the Court, but shall otherwise be bound by the Judgment to be entered and the releases to be given. Attendance at the Settlement Hearing is not necessary. However, Persons wishing to be heard orally in opposition to the approval of the Settlement, the Plan of Allocation, and/or the application for an award of fees, costs, and expenses to Class Counsel, or Plaintiff, are required to indicate in their written objection their intention to appear at the hearing and to include in their written objections the identity of any witness(es) they may call to testify and copies of any exhibits they intend to introduce into evidence at the Settlement Hearing. Class Members do not need to appear at the Settlement Hearing or take any other action to indicate their approval.

16. Any objections, filings, and other submissions by an objecting Class Member must follow directions set forth in the Long-Form Notice.

17. Any Class Member who does not object to the Settlement, the Plan of Allocation, or Class Counsel's application for an award of attorneys' fees, costs, and expenses in the manner prescribed herein and in the Notice shall be deemed to have waived such objection, and shall forever be foreclosed from making any objection to the fairness, adequacy, or reasonableness of the proposed Settlement, this Order and the Judgment to be entered approving the Settlement, the Plan of Allocation, and/or the application by Class Counsel for an award of attorneys' fees, a service award for Plaintiff in connection with her representation of the Certified Class, and Litigation Expenses.

18. No Person who is not a member of the Certified Class or Plaintiff's counsel shall have any right to any portion of, or to any distribution of, the Net Settlement Fund unless otherwise ordered by the Court or otherwise provided in the Stipulation.

19. All funds held by the Escrow Agent shall be deemed and considered to be in *custodia legis* and shall remain subject to the jurisdiction of the Court until such time as such funds shall be distributed pursuant to the Stipulation and/or further order(s) of the Court.

20. All papers in support of the Settlement, Plan of Allocation, and any application by Class Counsel for attorneys' fees, and unreimbursed costs and expenses shall be filed and served no later than thirty-five (35) calendar days before the Settlement Hearing, or **February 5, 2027**, any objections thereto shall be filed and served no later than twenty-one (21) calendar days before the Settlement Hearing, or **February 19, 2027**, and any reply papers shall be filed and served no later than seven (7) days before the Settlement Hearing, or **March 5, 2027**.

21. The Released Defendant Parties shall have no responsibility or liability for the Plan of Allocation or any application for attorneys' fees submitted by Class Counsel, and such matters will be considered by the Court separately from the fairness, reasonableness, and adequacy of the Settlement.

22. At or after the Settlement Hearing, the Court shall determine whether the Plan of Allocation proposed by Class Counsel, and any application for attorneys' fees, a service award for Plaintiff in connection with her representation of the Certified Class, and Litigation Expenses, should be approved. The Court reserves the right to enter the Judgment finally approving the Settlement regardless of whether it has approved the Plan of Allocation or awarded attorneys' fees and/or unreimbursed costs and expenses.

23. All reasonable expenses incurred in identifying and notifying Class Members as well as administering the Qualified Settlement Fund shall be paid as set forth in the Stipulation. In the event the Court does not approve the Settlement, or the Settlement otherwise fails to become effective, neither Plaintiff nor Class Counsel nor the Administrator shall have any obligation to repay any amount actually and properly incurred or disbursed pursuant to Section 6.1 of the Stipulation.

24. This Order and the Stipulation (including any of their respective terms or provisions), any of the negotiations, discussions, prior agreements, proceedings connected with them, and any act performed or document executed pursuant to or in furtherance of the Stipulation or the Settlement or this Order, may not be construed as an admission or concession by the Released Defendant Parties of the truth of any of the allegations in the Action, or of any liability, fault, or wrongdoing of any kind, and may not be offered or received in evidence (or otherwise used by any person in the Action, or in any other action or proceeding, whether civil, criminal, or administrative, in any court, administrative agency, or other tribunal) except in connection with any proceeding to enforce the terms of the Stipulation or this Order. The Released Defendant Parties, Plaintiff, Class Members, and each of their counsel may file the Stipulation, and/or this Order, and/or the Judgment in any action that may be brought against them in order to support a defense or counterclaim based on principles of *res judicata*, collateral estoppel, release, statute of limitations, statute of repose, good faith settlement, judgment bar or reduction, or any theory of claim preclusion or issue preclusion or similar defense or counterclaim.

25. All proceedings in the Action are stayed until further order of this Court, except as may be necessary to implement the Settlement or comply with the terms of the Stipulation. Pending final determination of whether the Settlement should be approved, neither the Plaintiff

nor any Class Member, either directly, representatively, or in any other capacity shall commence or prosecute any of the Released Plaintiff's Claims against any of the Released Defendant Parties in any action or proceeding in any court or tribunal.

26. The Court reserves the right to alter the time or the date of the Settlement Hearing or to hold the hearing via video- or teleconference without further notice to Class Members.

27. The Court may approve the Settlement, with such modifications as may be agreed to by the Parties, if appropriate, without notice to Class Members.

28. The Court retains exclusive jurisdiction over the Action to consider all further matters arising out of or connected with the Settlement.

29. In the event the Stipulation or the Settlement is terminated or the Effective Date otherwise fails to occur for any reason, the Parties shall be restored to their respective positions in the Action as of August 31, 2026 and the Court will set a new trial schedule for the Action. In such event, the terms and provisions of the Stipulation shall have no further force and effect with respect to the Parties and shall not be used in this Action or in any other proceeding for any purpose, and any judgment or order entered by the Court in accordance with the terms of the Stipulation shall be treated as vacated, *nunc pro tunc*.

30. If not already performed, Merrill shall, no later than ten (10) calendar days following the filing of the Stipulation with the Court, serve upon the appropriate state and federal officials a notice of the proposed Settlement in compliance with the requirements of the Class Action Fairness Act of 2005 ("CAFA"), 28 U.S.C. § 1715. Merrill is responsible for the costs of the CAFA notice and administering the CAFA notice. At least fourteen (14) calendar days before the Settlement Hearing, Merrill shall file with the Court proof, by affidavit or declaration, regarding compliance with CAFA § 1715(b).

The Clerk of Court is respectfully directed to terminate the open motions at Dkts. 345, 346, 348, 351, and 398.

IT IS SO ORDERED.

DATED this day of October 7, 2026

THE HONORABLE VALERIE CAPRONI
UNITED STATES DISTRICT JUDGE