UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ARBUCKLE FUNDING, LLC, and BRIGHTON TRUSTEES LLC, on behalf of and as Trustee for COOK STREET MASTER TRUST III, individually and on behalf of all others similarly situated, Plaintiffs, vs. TALCOTT RESOLUTION LIFE AND ANNUITY INSURANCE COMPANY and TALCOTT RESOLUTION LIFE INSURANCE COMPANY, Defendants.	Civil Action No. 7:23-cv-07972-CS

MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFFS' MOTION FOR FINAL APPROVAL AND PREMIUM TAX CLASS CERTIFICATION

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Plaintiffs	Arbuckle	Plaintiff Arbuckle Funding, LLC
	Brighton	Brighton Trustees LLC, on behalf of and as Trustee for Cook Street Master Trust III
Defendants	Talcott	Talcott Resolution Life and Annuity Insurance Company
	HLIC	Talcott Resolution Life Insurance Company

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I. INTRODUCTION

After over two and a half years of hard-fought litigation, Plaintiffs obtained an excellent partial settlement of the case with a total value exceeding $20 million. In Counts II and III of the operative complaint, Plaintiffs alleged novel breach of contract claims tied to the premium tax charge rate charged by Defendants. On May 13, 2026, the Court preliminarily approved the Settlement of only those counts, certified the Premium Tax Settlement Class for settlement purposes, and directed that notice be provided to the Class. ECF No. 127. Notice has since been provided pursuant to that order, and the deadline for Class Members to object or request exclusion has passed without a single Class Member objecting and only one individual requesting exclusion.[1] Plaintiffs now respectfully move for final approval of the Settlement and certification of the Premium Tax Settlement Class.

The Settlement that the Court preliminarily approved—and for which Plaintiffs now ask the Court to grant final approval—provides two principal forms of relief:

1. **Cash**: An $11 million all-cash, non-reversionary common fund. Because this is not a claims-made settlement, Settlement Class Members need not submit any claim form, and no portion of the fund will revert to Defendants. Checks will be mailed directly to each Settlement Class Member.

2. **Premium Tax Reductions**: Defendants agreed to (i) stop applying the retaliatory premium tax rate for states with lower rates than Connecticut, Defendants' domicile state, and instead apply those states' lower statutory rates, and (ii) cap premium tax charges to New York policyowners at 0.7%, the rate Plaintiffs contend New York law requires. As a result, Defendants now calculate premium taxes on these policies using the methodology Plaintiffs advocated

[1] Total tax overcharges for this policy are $333.82, which amounts to 0.0021% of total tax overcharges for the settlement class. *See* Kirkpatrick Decl. ¶ 20.

throughout the litigation.

Together, these two components deliver a total settlement value exceeding $20 million: the $11 million cash fund, plus the present value of the prospective premium tax relief—an additional $9,030,549 in value using a 6% discount rate over the next twenty years. Kirkpatrick Decl. ¶ 10. But even considered in isolation, each component is an excellent result for the class. The cash fund on its own equals roughly 76% of the total alleged historical premium-tax overcharges without interest Plaintiffs could have recovered with complete success on every disputed question of fact and law, and approximately 56% of what Plaintiffs could recover at trial after prejudgment interest. *Id.* That recovery percentage compares favorably to other overcharge settlements approved in this District. *See 37 Besen Parkway, LLC v. John Hancock Life Ins. Co.*, No. 15-CV-09924 (S.D.N.Y. Mar. 18, 2019), ECF No. 164 at 20:9–10 (approving "quite extraordinary" settlement for 42% of historical cost of insurance overcharges); *see also Cymbalista v. JPMorgan Chase Bank, N.A.*, 2021 WL 7906584, at *6 (E.D.N.Y. May 25, 2021) (characterizing settlement as "substantial recovery" in consumer protection case where settlement was 53%–65% of damages), *report and recommendation adopted*, Minute Entry (Nov. 22, 2021); *In re GSE Bonds Antitrust Litig.*, 2019 WL 6842332, at *4 (S.D.N.Y. Dec. 16, 2019) (approving antitrust settlement where settlement was 10.9% to 21.3% of damages). And the prospective relief adds millions of dollars more in value for the Class going forward. Kirkpatrick Decl. ¶ 13.

As explained in detail below, the disputed claims being resolved by this settlement began as a narrow dispute over a single policyholder's address change, but discovery substantially broadened its scope. Through interrogatories, document requests, and requests for admission, Plaintiffs uncovered additional overcharge issues that are now remedied by this Settlement.

This result was far from assured. Defendants intended to move to dismiss several of the

Premium Tax Claims around unresolved questions of contract interpretation that had never been litigated in this context. At the July 28, 2025 pre-motion conference, the Court itself observed that the policy language "sure looks ambiguous." Ex. 3 (Hrg. Tr.) at 2:18–19. Defendants argued, among other things, that (a) under state retaliatory tax statutes, Connecticut's rate is the "rate assessed" to Defendants in lower-premium tax rate states and the proper premium tax charge rate for the Class Policies, and (b) New York's statutory minimum premium tax is 1.5%, not the 0.7% rate Plaintiffs asserted. ECF No. 81 at 2–3. As the Court put it, "both [parties] have decent arguments, which is why we'll have motion practice." Hrg. Tr. at 11:25–12:1.[2]

Ultimately, after extensive arm's-length negotiations, the parties reached an agreement in principle. And after months of negotiations over the details, the Settlement presented here easily merits final approval. It was negotiated by experienced counsel after thorough investigation of the law and facts. And it provides meaningful monetary relief, both cash now and cash savings going forward, that will benefit class members while minimizing the risks, expenses, and uncertainty of continued litigation.

The positive reaction by the Class, who filed no objections and submitted one exclusion request, supplies additional, powerful evidence that the Settlement, Plan of Allocation, and Fee, Expense, and Service Award motion should be approved as fair, adequate, and reasonable. *See, e.g.*, *Maley v. Del Glob. Techs. Corp.*, 186 F. Supp. 2d 358, 362 (S.D.N.Y. 2002) ("It is well-settled that the reaction of the class to the settlement is perhaps the most significant factor to be weighed in considering its adequacy." (citation omitted)); *id.* at 374 ("[T]his overwhelmingly

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[2] After the pre-motion conference, the parties asked the Court to extend the briefing deadlines "to facilitate further discussion by the parties of a partial resolution of the dispute and potentially obviate the need for the briefing of the motion," and, ultimately, asked the Court to hold the deadlines in abeyance. *See* ECF Nos. 90, 95. The Court granted the requests. *See* ECF No. 91, 96.

positive response by the Class attests to the approval of the Class with respect to the Settlement and the fee and expense application."); *Oklahoma Firefighters Pension & Ret. Sys. v. Lexmark Int'l, Inc.*, 2021 WL 76328, at *2 (S.D.N.Y. Jan. 7, 2021) (recognizing that "the absence of objections by the class is extraordinarily positive and weighs in favor of settlement" (citation omitted)).

Accordingly, Plaintiffs respectfully request that the Court enter an order and final judgment: (1) finally approving the Settlement Agreement and the Plan of Allocation as fair, reasonable, and adequate; (2) finally certifying the Premium Tax Settlement Class; (3) finding that the Class Notice and notice plan satisfied Rule 23 and due process; and (4) dismissing Counts II and III (the Second Claim For Relief and the Third Claim For Relief) of the Fourth Amended Complaint with prejudice.

II. BACKGROUND

A. Procedural History and Factual Background

Plaintiff Arbuckle commenced this putative class action on September 8, 2023, alleging two separate breach-of-contract theories. Count I claimed that Talcott failed to lower cost of insurance ("COI") rates after the Tax Cuts and Jobs Act of 2017 ("TCJA") reduced the federal corporate tax rate from 35% to 21%, notwithstanding contractual provisions tying COI rates to Talcott's tax expectations. ECF No. 1 at ¶¶ 5–7, 23–31, 47–52. That COI Claim is not part of this Settlement and continues to be litigated.

Count II, one of the claims at issue here, alleged that Talcott breached its contracts with New York policyholders in two ways: by failing to update the premium tax charge rate when a policyowner's state of residence changed, and by charging New York policyowners more than 0.7%. Arbuckle's own policy—issued in California—contains the following Premium Tax Change Language:

DEDUCTIONS FROM PREMIUM PAYMENTS		
TYPE OF CHARGE	POLICY YEARS	PERCENT OF PREMIUMS PAID
PREMIUM CHARGE	1 - 20 21+	5.00% 2.00%
PREMIUM TAX	ALL	2.35%

* THE PREMIUM TAX PERCENTAGE RATE DEPENDS UPON THE RATE ASSESSED BY YOUR STATE OR MUNICIPALITY OF RESIDENCE. IF YOUR STATE OR MUNICIPALITY OF RESIDENCE CHANGES AND/OR IF YOUR STATE OR MUNICIPALITY CHANGES ITS PREMIUM TAX RATE, THE PREMIUM TAX RATE WILL CHANGE TO EQUAL THAT NEW RATE.

Id. at ¶ 11.

Arbuckle, a New York company, purchased its policy on the secondary market in 2019. *Id.* at ¶ 12. Talcott recorded the change in ownership and address and began sending Arbuckle policy correspondence in New York. Yet Talcott kept charging the 2.35% California premium tax rate rather than New York's rate, which Arbuckle alleges is 0.7%. *Id.* Arbuckle also alleged that thousands of other New York policyholders were overcharged the same way. *Id.*

As the case progressed, Arbuckle and Class Counsel pursued extensive discovery, obtaining from Talcott and The Prudential Insurance Company of America ("Prudential")—the policies' administrator—substantial documentation, written discovery responses, and policy-level data for the proposed Premium Tax Settlement Class. Although discovery also involved the still-pending COI claim, the overall volume illustrates its scope: Plaintiffs served 65 requests for production, 15 interrogatories, and 50 requests for admission, and Talcott produced over 8,000 documents and data sets, including policy-level data, actuarial information, and communications. Kirkpatrick Decl. ¶ 13.

Building on that discovery, Plaintiff filed a Second Amended Complaint in March 2024 (ECF No. 44), expanding the proposed class beyond New York policyholders to all policyholders nationwide affected by the address-update issue. Discovery showed—as Defendants' administrator Prudential itself acknowledged—that from April 1, 2015 until it was corrected in

2025 (in the middle of, and because of, this litigation), a system field used on one administrative platform to determine which states premium tax rate to apply did not update when a policyholder's address changed, overcharging policyholders on that system whose address changed to lower-tax states. This became the Address Update Claim (Count II). *See* Ex. 2 (Settlement Agreement) at 4–5.

Discovery continued and led to the discovery of additional issues with Defendants' premium-tax administration. In March 2025, Plaintiff filed its Third Amended Complaint (ECF No. 62), adding Count III to address two further overcharge issues uncovered through the litigation:

- *Retaliatory Tax Rate Issue:* For policyholders residing in fifteen states with statutory premium tax rates lower than Connecticut's (Talcott's domicile state)—including New York[3], the District of Columbia, Idaho, Illinois, Indiana, Iowa, Kentucky, Michigan, Minnesota, Nebraska, New Hampshire, Ohio, Oregon, South Carolina, and Wyoming—Defendants applied Connecticut's higher premium tax rate (the rate assessed to Defendants by these states) rather than the states' lower statutory premium tax rate. *Id.* at ¶ 46. The policies reference only premium tax rates and make no specific reference to retaliatory taxes, which Plaintiffs contend are distinct charges with different purposes. *Id.* at ¶ 45.
- *Rate Update Issue:* Talcott failed to update premium tax rates when Arizona, Connecticut, and the District of Columbia reduced their statutory premium tax rates. *Id.* at ¶ 18. For example, Connecticut decreased its premium tax rate from 1.75% to 1.5% effective January

[3] The parties' dispute over the proper premium tax rate for New York policyowners is referred to in the Settlement Agreement as the New York Rate Issue or the New York Rate Claim. The terms Retaliatory Rate Issue and Retaliatory Rate Claim as used herein include the New York Rate Issue and the New York Rate Claim.

1, 2018, yet discovery revealed that premium tax charge rates were not updated to reflect this change until January 2025, with that change in practice occurring as a consequence of this lawsuit. *Id.* Because Talcott assessed retaliatory taxes using Connecticut's premium tax rate, this change impacted not only Connecticut-domiciled policyholders, but all policyholders (including Arbuckle) who reside in a state that has a lower premium tax rate than Connecticut's.

Discovery later showed that Talcott's affiliate, Talcott Resolution Life Insurance Company ("HLIC"), administered premium tax charges identically to Talcott. Plaintiffs accordingly filed the Fourth Amended Complaint in April 2026 (ECF No. 116), adding Brighton Trustees LLC as a plaintiff and HLIC as a defendant solely as to Counts II and III.

B. Settlement Negotiations

The Settlement Agreement is the product of extensive, good-faith negotiations conducted at arm's length. Before signing, counsel on both sides thoroughly investigated and evaluated the governing law, the facts, the parties' allegations and defenses, the relative merits and weaknesses of the Premium Tax Claims, and the viability of class certification, including the grounds on which Defendants might have opposed it. *See* Kirkpatrick Decl. ¶¶ 4–7.

Counsel first met in person on April 30, 2025 to evaluate and begin negotiating a class-wide resolution of the Premium Tax Claims. *Id.* ¶ 5. Additional in-person and virtual sessions followed on August 4 and September 26, 2025, and counsel conferred through numerous calls and emails between and after those meetings. *Id.* Experienced, highly qualified counsel conducted these negotiations on both sides. *Id.* ¶¶ 5–15.

Throughout, the parties weighed the risks, uncertainty, delay, and expense of continuing to prosecute and defend the Premium Tax Claims. *Id.* They reached an agreement in principle and then spent several additional months negotiating the Settlement Agreement itself.

C. The Settlement Agreement

Once effective, the Settlement Agreement will resolve Counts II and III of the Fourth Amended Complaint and deliver substantial relief to the Premium Tax Settlement Class.

1. Premium Tax Settlement Class

The Settlement defined the Premium Tax Settlement Class as all current and former Policyowners of all Premium Tax Settlement Class Policies. *See* Settlement Agreement § X.A.3. A "Premium Tax Settlement Class Policy" is any individual universal life or variable universal life insurance policy issued or insured by Defendants, containing the Premium Tax Change Language, for which a premium payment subject to one or more of the Premium Tax Claims was made during the Class Period, and: (1) for which a new address was registered with Defendants or Prudential after issuance, and which were assessed a Premium Tax Charge Rate in excess of the Statutory Premium Tax Rate assessed by the State associated with the new registered address; or (2) for which an address in Arizona, Connecticut, the District of Columbia, Idaho, Illinois, Indiana, Iowa, Kentucky, Michigan, Minnesota, Nebraska, New Hampshire, New York, Ohio, Oregon, South Carolina, or Wyoming was registered with Defendants or Prudential.[4] *Id.* § II.HH. Defendants have conditionally consented to certification of the Settlement Class for settlement purposes only. *Id.* § XII.E. The Court certified the Class on this basis for settlement purposes in the Preliminary Approval Order. ECF No. 127.

2. Consideration

The Settlement delivers two principal categories of benefits to the Premium Tax Settlement

[4] Excluded from the Premium Tax Settlement Class are: (a) officers or directors of Defendants or Prudential; (b) any judicial officer presiding over the Action and the members of his or her immediate family and judicial staff; (c) anyone employed in Plaintiffs' Counsel's firm; and (d) Policyowners who submit a valid and timely Request for Exclusion. Settlement Agreement § II.GG.

Class:

<u>Cash</u>: The settlement required Defendants to cause Prudential—the administrator and 100% reinsurer for the Class Policies—to fund a non-reversionary common fund of $11 million in full and final resolution of the Released Claims. Settlement Agreement § III.A. Because this is not a claims-made settlement, Premium Tax Settlement Class Members need not submit any claim form. Following final approval, checks will be mailed directly to Authorized Claimants at the address of record with Prudential or a new address identified by the Claims Administrator. *See id.* § III.B. No portion of the Settlement Amount will revert to Defendants; unclaimed funds instead escheat to the appropriate state authorities. *Id.*

<u>Reduction in Premium Tax Charges</u>: Within thirty days of the Preliminary Approval Order's entry, Defendants and Prudential, as administrator, undertook to prospectively, for the Premium Tax Settlement Class Policies: (1) stop applying Connecticut's statutory premium tax rate—the rate that retaliatory tax laws otherwise assess against Defendants in states with lower statutory rates than Connecticut—and instead charge no more than those states' own non-retaliatory statutory rates; and (2) cap premium tax charges for New York residents at the rate set forth in N.Y. Tax Law § 1510(b), currently 0.7%, which Plaintiffs contend is New York's statutory rate. Settlement Agreement § III.D. That forward-looking commitment benefits the Premium Tax Settlement Class Members and similarly situated policyholders for years to come.

3. Release

As of the Effective Date, Plaintiffs, the Premium Tax Settlement Class, and the Releasing Parties will be deemed to have fully, finally, and forever released the Releasees from the Released Claims. Settlement Agreement § IV.B. Those Released Claims reach, to the fullest extent the law allows, any claim arising out of, based on, or related to the Premium Tax Charge Rate applied to any premium payment on a Premium Tax Settlement Class Policy during the Class Period.

The Released Claims exclude the COI Claim (Count I) and any claim arising after the Agreement's Effective Date. *Id.* § II.P. Arbuckle and Talcott have not resolved—and this Settlement Agreement does not resolve—the COI Claim, which remains pending. *Id.* § I.C n.1. Neither party makes any representation, release, or admission concerning the COI Claim in the Settlement Agreement, and nothing in it affects either party's rights, obligations, defenses, or liabilities as to that claim. *Id.*

4. Attorneys' Fees, Costs, and Incentive Awards

On August 11, 2026, Plaintiffs' Counsel moved for an award of attorneys' fees of $3,666,666.67, which is 18.3% of the gross settlement benefit (or using a "more conservative and less-accepted methodology," *Velez v. Novartis Pharms. Corp.*, 2010 WL 4877852, at *18 (S.D.N.Y. Nov. 30, 2010), one-third of the cash component of the settlement viewed in isolation), reimbursement of $203,493.98 in litigation costs and expenses incurred for the Premium Tax Claims, and a $5,000 incentive award for Plaintiff Arbuckle in recognition of its efforts on behalf of the Premium Tax Settlement Class, to be paid from the Escrow Account. Settlement Agreement § IX.A; ECF Nos. 131–133. No Settlement Class Member objected to the relief requested.

5. Notice and Plan of Allocation

Pursuant to the Preliminary Approval Order, JND, as Claims Administrator, mailed the Class Notice by first-class U.S. mail on July 10, 2026 to 56,472 persons and entities associated with Premium Tax Settlement Class Policies using the Notice List provided by Defendants' Counsel. *See* Settlement Agreement § VI.D; ECF No. 126-1; Timm Decl. ¶ 8. Before mailing, JND ran the Notice List through the U.S. Postal Service's National Change of Address Database to verify and correct addresses and reduce the number of returned items. *Id.* ¶ 7. JND re-mailed any Class Notice returned with a forwarding address and conducted advanced address searches for 547 Class Members. *Id.* ¶ 9. The Class Notice was also posted on the dedicated Settlement Website, www.PremiumTaxSettlement.com. Settlement Agreement § IV.E; Timm Decl. ¶¶ 8–9.

The Plan of Allocation distributes the Net Settlement Fund (the Settlement Amount less Claims Administration Expenses, any Incentive Awards, and any Fee and Expense Award) on a *pro-rata* basis, as follows: The Plan will allocate to each Premium Tax Settlement Class Policy that was subject to a premium tax overcharge due to the Address Update Issue and/or Rate Update Issue an amount equal to the full overcharge amount attributable to those issues, less a proportionate share of Total Expenses. Settlement Agreement § III.B. The remaining funds are then allocated on a *pro-rata* basis among policyholders subject to overcharges due to the Retaliatory Tax Rate Issue. *Id.* This proposed allocation accounts for the differing levels of litigation risk associated with the various Premium Tax Claims.

Settlement checks will be mailed directly to Authorized Claimants; no claim forms are required. ECF No. 120, Ex. 3 (Plan of Allocation) § 1. For policies with multiple owners of record, the *pro-rata* share will be divided equally among the owners. *Id.* § 3. Checks will be mailed to the address of record or a new address identified by the Claims Administrator of the most recent registered owner of record as of the Preliminary Approval Date. *Id.* § 4. Following this distribution, any remaining unclaimed funds shall be escheated to state authorities. *Id.* § 6.

On May 13, 2026, the Court entered its Order Preliminarily Certifying the Premium Tax Settlement Class and Approving the Premium Tax Settlement Class Action Settlement (the "Preliminary Approval Order"), preliminarily approving the Settlement, certifying the Premium Tax Settlement Class for settlement purposes, appointing Plaintiffs as Class Representatives and Susman Godfrey L.L.P. as Class Counsel, appointing JND Legal Administration LLC ("JND") as Claims Administrator, approving the Class Notice and Notice Plan, and scheduling a Final Approval Hearing. ECF No. 127. No Settlement Class Member objected to the proposed Plan of

Allocation.

D. Preliminary Approval and Implementation of the Notice Program

Consistent with the Preliminary Approval Order, JND implemented the Court-approved notice program, including mailing the Class Notice by first-class U.S. mail on July 10, 2026 to 56,472 persons and entities identified on the Notice List, establishing and maintaining a dedicated Settlement Website (www.PremiumTaxSettlement.com) and toll-free telephone number, and serving notice under the Class Action Fairness Act, 28 U.S.C. § 1715, on the appropriate state and federal officials. *See generally* Timm Decl. The deadline for Premium Tax Settlement Class Members to request exclusion from or object to the Settlement was August 26, 2026. JND has received one timely request for exclusion, representing 0.0021% ($333.82) of the alleged overcharges, and no objections. *Id.* ¶¶ 15–16; Kirkpatrick Decl. ¶ 20.

III. ARGUMENT

As described above and in further detail below, the Settlement was negotiated at arm's length by experienced counsel after extensive discovery and investigation; the relief provided exceeds $20 million in value, and includes $11 million in cash and valuable prospective changes to Defendants' premium tax charge practices, is substantial in light of the risks and delays of continued litigation; the Notice Plan satisfied Rule 23 and due process; and the Settlement Class satisfies all requirements for certification. The Court should grant final approval to the Settlement and finally certify the Settlement Class.

A. The Settlement Warrants Final Approval Under Rule 23(e)(2)

Rule 23(e) subjects class settlements to court approval, and "[i]t is within a district court's discretion to approve proposed class action settlements." *Zimmerman v. Paramount Glob.*, 2025 WL 763734, at *3 (S.D.N.Y. Mar. 11, 2025). This Circuit has long recognized a "strong judicial policy in favor of settlements, particularly in the class action context." *E.g.*, *Nnebe* *v. Daus*, 2025 WL 1333425, at *2 (S.D.N.Y. May 7, 2025) (Sullivan, J.) (quoting *In re Payment Card Interchange Fee & Merch. Disc. Antitrust Litig.*, 330 F.R.D. 11, 27 (E.D.N.Y. 2019)). Courts therefore remain "hesitant to substitute their judgment for that of the parties who negotiated the settlement" absent "fraud or collusion." *Christine Asia Co.*, *v. Ma*, 2019 WL 5257534, at *8 (S.D.N.Y. Oct. 16, 2019) (alterations adopted) (citation omitted).

At final approval, following the Final Approval Hearing, the Court must determine whether the Settlement "is fair, reasonable, and adequate" after considering whether: (A) the class representatives and class counsel have adequately represented the class; (B) the proposal was negotiated at arm's length; (C) the relief provided for the class is adequate, taking into account the costs, risks, and delay of trial and appeal, the effectiveness of any proposed method of distributing relief, the terms of any proposed award of attorneys' fees, and any agreement required to be identified under Rule 23(e)(3); and (D) the proposal treats class members equitably relative to each other. Fed. R. Civ. P. 23(e)(2). The first two factors focus on "procedural fairness," while the latter two factors focus on "substantive fairness." *Christine Asia*, 2019 WL 5257534, at *9–10. In granting preliminary approval, the Court already held that "it will likely be able to approve the Settlement under Rule 23(e)(2)." ECF No. 127 ¶ 6. As discussed below, all factors weigh in favor of granting final approval to the Settlement.

1. **The Proposed Settlement Is Procedurally Fair**

The Court must first consider whether "the class representatives and class counsel have adequately represented the class" and whether "the proposal was negotiated at arm's length." Fed. R. Civ. P. 23(e)(2)(A)–(B).

a. <u>The Class Representatives and their Counsel Have Adequately Represented the Class</u>

Adequacy of representation turns on "whether: 1) plaintiff's interests are antagonistic to the interest of other members of the class and 2) plaintiff's attorneys are qualified, experienced and able to conduct the litigation." *Cordes & Co. Fin. Servs., Inc. v. A.G. Edwards & Sons, Inc.*, 502 F.3d 91, 99 (2d Cir. 2007) (citation omitted). Both considerations favor final approval here.

Plaintiffs' interests have always aligned with those of every other Settlement Class Member: each shares the same interest in maximizing recovery from Defendants for the alleged premium tax overcharges on the contracts each owns. No conflict has arisen, or exists, between the Class Representatives and the Class. As described in Class Counsel's May 4, 2026, letter to the Court (ECF No. 125), the sequencing of Defendants' admissions with respect to the Address Update and Rate Update issues ensured that no interests of Class Members holding only Retaliatory Tax Rate claims were traded away to benefit others: by the time settlement negotiations began in earnest, Defendants had already acknowledged historical liability for the Address Update and Rate Update overcharges, while the Retaliatory Tax Rate claims remained genuinely contested. *See In re Coll. Athlete NIL Litig.*, 803 F. Supp. 3d 959, 1015 (N.D. Cal. 2025), appeal filed, No. 25-7469 (no inadequacy where record showed no "indication that the interests of one class were traded away to benefit those of another," and sequenced negotiation "served as a structural protection that ensured fair and adequate representation"). Moreover, the vast majority of Class Members with a Retaliatory Tax Rate claim also hold a Rate Update and/or Address Update claim, and both named Plaintiffs hold Retaliatory Tax Rate claims, further confirming that plaintiffs were incentivized to maximize their value. *See In re Blue Cross Blue Shield Antitrust Litig. MDL 2406*, 85 F.4th 1070, 1091 (11th Cir. 2023) (affirming final approval over objections, citing overlap in class membership and concluding that class representatives and counsel did not have "any incentive to trade away" certain relief in exchange for other relief).

Class Counsel, Susman Godfrey L.L.P., brought substantial experience in class actions, insurance litigation, and class action insurance litigation to this case. *See* Ex. 1. In this District alone, Susman Godfrey has served as Class Counsel in numerous life insurance and other class actions, including *In re: AXA Equitable Life Insurance Co.* (S.D.N.Y.), *Fleisher v. Phoenix Life Insurance Co.* (S.D.N.Y.), *37 Besen Parkway, LLC v. John Hancock Life Insurance Co.* (S.D.N.Y.), *Kenney v. PHL Variable Insurance Co.* (S.D.N.Y.), and the *LIBOR-Based Financial Instruments Antitrust Litigation* (S.D.N.Y.), among others. *See* Kirkpatrick Decl. ¶ 3 & Ex. 1. That experience, applied diligently throughout this litigation, produced a Settlement that Class Counsel considers a very favorable resolution—a view the Class's own response, discussed below, confirms. *Id.* ¶ 17.

b. <u>The Proposed Settlement Was Negotiated at Arm's Length</u>

Rule 23(e)(2)(B) directs courts to assess whether a settlement was negotiated at arm's length as part of the procedural fairness inquiry. This Settlement bears the hallmarks courts in this Circuit look for in that inquiry. *See, e.g.*, *Reyes v. Summit Health Mgmt., LLC*, 2024 WL 472841, at *3 (S.D.N.Y. Feb. 6, 2024) (citing "extensive pre-negotiation discovery" that provided parties "a full opportunity to acquaint themselves with the strength of the case prior to initiating negotiations" as a sign of "good faith arm's-length negotiations"); *Durand v. Excelsior Care Grp. LLC*, 2021 WL 5409097, at *4 (E.D.N.Y. July 14, 2021) ("[T]he settlement agreement was the product of arm's-length bargaining reached only after protracted discovery and extensive settlement discussions with experienced counsel.").

Settlement talks began on April 30, 2025, nearly two years into the case and only once significant discovery was complete. *See* Kirkpatrick Decl. ¶¶ 4–5. The parties kept negotiating through additional in-person and virtual sessions on August 4 and September 26, 2025, along with numerous calls and emails around those meetings. *Id.* An agreement in principle followed in

October 2025, and the parties then spent five more months hammering out the long-form Settlement Agreement.

By the time the parties reached that agreement in principle, Plaintiffs' Counsel already understood the case's material facts, strengths, and weaknesses. *Id.* ¶ 6. Over the course of the litigation, Plaintiffs' Counsel had obtained and analyzed extensive documentation and data from Defendants and Prudential, including policy-level data, interrogatory responses, and internal records reflecting Defendants' premium tax practices. *Id.* ¶ 7. That discovery grounded Plaintiffs' Counsel's evaluation of the claims and its judgment that the Settlement is fair and adequate.

That the parties left the COI Claim unsettled—and continue to actively litigate it—further confirms that the Premium Tax Claims were resolved at arm's length rather than through any broader accommodation.

2. The Proposed Settlement Is Substantively Fair

Rule 23(e)(2) "requires courts to expressly consider two core factors when reviewing the substantive fairness of a settlement: the adequacy of relief provided to a class and the equitable treatment of class members." *Moses v. New York Times Co.*, 79 F.4th 235, 244 (2d Cir. 2023). According to both factors, the Settlement is substantively fair, reasonable, and adequate.

a. The Relief Is Adequate

Rule 23(e)(2)(C) identifies four considerations bearing on the adequacy of relief: (i) "the costs, risks, and delay of trial and appeal," (ii) "the effectiveness of any proposed method of distributing relief to the class, including the method of processing class-member claims," (iii) "the terms of any proposed award of attorney's fees, including timing of payment," and (iv) "any agreement required to be identified under Rule 23(e)(3)." Every one of these considerations favors final approval, particularly given the litigation risks Plaintiffs faced.

Until Rule 23(e)(2)(C)'s four-factor framework was codified in 2018, courts in this Circuit employed a nine-factor framework from *City of Detroit v. Grinnell Corp.*, 495 F.2d 448, 463 (2d Cir. 1974). The two frameworks have "significant overlap," and the 2018 amendments to Rule 23 were intended to "add to, rather than displace, the *Grinnell* factors." *In re Payment Card Interchange Fee & Merch. Discount Antitrust Litig*., 330 F.R.D. at 29 (citation omitted). Under both, the proposed Settlement is more than adequate. It represents a very favorable result given the novel legal questions presented and Defendants' anticipated defenses.

i. Costs, Risks, and Delay of Trial and Appeal

The $20 million in benefits secured, including the $11 million cash payment and prospective business-practice changes, is a substantial recovery given the real risks and uncertainties the Class would otherwise have faced. Talcott and HLIC denied any wrongdoing regarding the Retaliatory Tax Rate Issue, maintaining that Connecticut's premium tax rate was the correct premium tax charge rate for states with lower statutory rates under retaliatory tax laws, and that 1.5% was the proper rate for New York residents.

As Talcott explained in its June 16, 2025 pre-motion letter, its position was that "the policy language is clear and unambiguous that the premium tax charge percentage rate is the premium tax rate assessed by the policyowner's state of residence—not the state's statutory premium tax rate when that is not the rate assessed due to retaliatory tax laws." ECF No. 81 at 1–2. Defendants also argued that state tax law principles supported their premium tax practices and that for New York policyholders, Article 33 of the New York Tax Law imposes a minimum 1.5% premium tax, not the 0.7% premium tax Plaintiffs cited. *Id.* at 2–3. The Premium Tax Claims presented difficult questions of contract interpretation that had not been litigated in this context before, and there was genuine uncertainty about how the Court would resolve these novel issues. At the July 28, 2025 conference, the Court acknowledged that "both" parties had "decent arguments" and that the policy language was "debatable." Hrg. Tr. at 2:17, 11:25–12:1.

Absent settlement, the Class would have faced contested class certification, likely summary judgment motions, and further risk at trial and on appeal—a process that can stretch on for years with no assurance of recovery. *See Charron v. Pinnacle Grp. N.Y. LLC*, 874 F. Supp. 2d 179, 201 (S.D.N.Y. 2012) (observing that settlement "assures immediate payment of substantial amounts to Class Members, 'even if it means sacrificing speculative payment of a hypothetically larger amount years down the road'" (citation omitted)). This Settlement avoids all of that and delivers certain, immediate relief instead. This factor weighs strongly in favor of final approval.

ii. Effectiveness of Proposed Method of Distributing Relief

The distribution method is also highly effective. Settlement checks go directly to Authorized Claimants without any claims process. Each Authorized Claimant's pro-rata share is computed from that policy's individual overcharge amount, as Section II.C.5 describes in more detail.

"A reasonable plan may consider the relative strength and values of different categories of claims." *In re Telik, Inc. Sec. Litig.*, 576 F. Supp. 2d 570, 580 (S.D.N.Y. 2008). Courts approve distribution plans as fair and reasonable so long as they have a "reasonable, rational basis." *Fleisher v. Phoenix Life Ins. Co.*, 2015 WL 10847814, at *12 (S.D.N.Y. Sept. 9, 2015) (citation omitted). The Plan of Allocation meets that standard: because the Retaliatory Tax Claims carried more legal uncertainty than the Address Update/Rate Update Claims that Defendants had already acknowledged, the Plan rationally pays the latter category first from the Net Settlement Fund before distributing the remainder pro rata for all Retaliatory Overcharge Payments.

iii. The Terms of Any Proposed Award of Attorneys' Fees

Rule 23(e)(2)(C)(iii) considers the "terms of any proposed award of attorney's fees, including timing of payment." In *Kurtz v. Kimberly-Clark Corp.*, 142 F.4th 112 (2d Cir. 2025), the Second Circuit clarified that Rule 23(e) "requires courts to compare the proportion of total recovery allocated to the class to the proportion of total recovery allocated to class counsel," *id.* at 115. The Second Circuit explained that "[w]hereas Rule 23(h) asks whether fees are reasonably calculated and genuinely earned—using class recovery as a measuring stick for attorney success—Rule 23(e) safeguards the fairness of a settlement for the class by posing a comparative inquiry: does the proportion of the total recovery allocated to attorney's fees compared to the proportion of the total recovery allocated to the class raise any questions about the adequacy of class relief?" *Id.* at 121.

The *Kurtz* court emphasized that district courts have discretion in the mechanics of the calculation "[s]o long as the proportion of the total recovery that goes to attorney's fees is compared to the proportion of 'relief provided for the class.'" *Id.* at 119 (citation omitted). Although *Kurtz* was decided less than a year ago, at least one district court in this Circuit has already recognized that *Kurtz* "did not change the approach taken to assess the fairness of a class settlement in common fund cases." *Caccavale v. Hewlett-Packard Co.*, 2025 WL 2960237, at *11 (E.D.N.Y. Oct. 20, 2025).

Here, Plaintiffs' Counsel has requested attorneys' fees of $3,666,666.67, which is 18.3% of the Settlement's gross settlement benefits (or using a "more conservative and less-accepted methodology," *Velez*, 2010 WL 4877852, at *18, one-third of the cash component of the settlement viewed in isolation), which is within the range typically awarded in this Circuit. *See, e.g.*, *Puddu* *v. 6D Glob. Techs., Inc.*, 2021 WL 1910656, at *6 (S.D.N.Y. May 12, 2021) (Nathan, J.) (finding 33.3% fee reasonable); *Sykes v. Harris*, 2016 WL 3030156, at *17 (S.D.N.Y. May 24, 2016) (Chin, J.) (affirming that "[d]istrict courts in the Second Circuit routinely award attorneys' fees that are 30 percent or greater" (citation omitted)). Applying the *Kurtz* framework confirms the reasonableness of this award, especially given that there is a common fund and no funds will revert to Defendants. Settlement Agreement § II.RR. The Settlement Agreement also provides that any such award will be paid within ten days after the Court's order on the fee award or the Effective Date, whichever is later. *Id.* § IX.B. No Class Members have objected to the fee request. "The lack of objections to Class Counsel's fee and cost reimbursement request is an indication of the reasonableness of the requested award and weighs in favor of its approval." *Sanchez v. Kambousi Rest. Partners, LLC*, 2016 WL 11717104, at *1 (S.D.N.Y. Sept. 14, 2016); *see also Guevoura Fund Ltd. v. Sillerman*, 2019 WL 6889901, at *22 (S.D.N.Y. Dec. 18, 2019) ("The lack of objections, in this day and age, is not only remarkable, but militates in favor of approval of the Fees as requested."); *In re J.P. Morgan Stable Value Fund ERISA Litig.*, 2019 WL 4734396, at *4 (S.D.N.Y. Sept. 23, 2019) ("[T]he Class's lack of objection should be taken to mean that the Class consents to Class Counsel's request and finds it reasonable.").

iv. Any Agreement Identifiable Under Rule 23(e)(3)

The final consideration looks to "any agreement required to be identified under Rule 23(e)(3)." Fed. R. Civ. P. 23(e)(2)(C)(iv). That Rule requires parties seeking approval to file a statement identifying any agreement made in connection with the settlement proposal. No agreement exists here beyond the Settlement Agreement itself. The Settlement Agreement does reference the Claims Administrator's undertaking to comply with Prudential's data security requirements in administering the Settlement, Section VIII.A, and those details are available to the Court on request.

b. The *Grinnell* Factors Favor Approval

As discussed, courts in this Circuit continue to consider various factors from *Grinnell*, but Rule 23 covers many already. For example, Rule 23(e)(2)(C)(i)'s consideration of "the costs, risks, and delay of trial and appeal" "subsumes several *Grinnell* factors." *Hesse v. Godiva Chocolatier, Inc.*, 2022 WL 22895466, at *6 (S.D.N.Y. Apr. 20, 2022) (citation omitted). Still, courts have held that certain *Grinnell* factors remain relevant and should still be considered: (a) the reaction of the class to the settlement (factor 2); (b) the stage of the proceedings and the amount of discovery completed (factor 3); (c) the ability of the defendant to withstand a greater judgment (factor 7); and (d) the range of reasonableness of the settlement fund in light of the best possible recovery and attendant risks (factors 8 and 9). *See C.K. ex rel. P.K. v. McDonald*, 2026 WL 220984, at *9 (E.D.N.Y. Jan. 15, 2026); *see also Hesse*, 2022 WL 22895466, at *9–10.

Regarding the reaction of the Class (factor 2), that reaction has been overwhelmingly positive. Here, the Settlement Administrator provided notice, resulting in approximately 98% of Class Member addresses being successfully reached by direct mail. Only one Class Member requested exclusion, and no Class Member objected to the Settlement. Timm Decl. ¶¶ 16, 18. Courts routinely recognize that "the absence of objectants may itself be taken as evidencing the fairness of a settlement." *In re PaineWebber Ltd. P'ships Litig.*, 171 F.R.D. 104, 126 (S.D.N.Y. 1997) (citation omitted); *see also Jander v. Ret. Plans Comm. of IBM*, 2021 WL 3115709, at *3 (S.D.N.Y. July 22, 2021) (recognizing "absence of objections by the class is extraordinarily positive and weighs in favor of settlement" (citation omitted)); *Puddu*, 2021 WL 1910656, at *4 ("[A] lack of objection is often seen as strong evidence of the settlement's fairness."). This factor strongly favors approval.

As for the remaining *Grinnell* factors, they continue to weigh strongly in favor of final approval, just as they did at the preliminary approval stage. First, regarding the stage of the proceedings (factor 3), this inquiry relates to "whether the plaintiffs have obtained a sufficient understanding of the case to gauge the strengths and weaknesses of their claims and the adequacy of the settlement." *In re AOL Time Warner, Inc.*, 2006 WL 903236, at *10 (S.D.N.Y. Apr. 6, 2006). Here, extensive discovery was conducted over the course of this litigation, including document production, interrogatories, requests for admission, and the production of comprehensive policy-level data. With the benefit of this discovery, Plaintiffs' Counsel thoroughly evaluated the strengths and weaknesses of the claims before negotiating this Settlement.

Second, regarding the range of reasonableness of the settlement (factors 8 and 9), "[t]he adequacy of the amount achieved in settlement may not be judged in comparison with the possible recovery in the best of all possible worlds, but rather in light of the strengths and weaknesses of plaintiffs' case." *In re IMAX Sec. Litig.*, 283 F.R.D. 178, 191 (S.D.N.Y. 2012) (citation omitted). The $20 million in benefits secured represents a significant and certain benefit to the Class alleging legal theories that were hotly contested. Courts routinely approve settlements representing a fraction of maximum potential damages. Considering the contested nature of the Retaliatory Tax Claim and the risk that Defendants could successfully defend against them at trial, the Settlement is well within the range of reasonableness.

Third, the fact that the Defendants could withstand a greater judgment (factor 7) does not undermine the fairness of the Settlement. *See McBean v. City of New York*, 233 F.R.D. 377, 388 (S.D.N.Y. 2006) (Lynch, J.) (rejecting contention that a defendant must "empty its coffers" and explaining that "the ability of defendants to pay more, on its own, does not render the settlement unfair, especially where the other *Grinnell* factors favor approval"); *see also D'Amato v. Deutsche*

Bank, 236 F.3d 78, 86 (2d Cir. 2001) ("[T]his factor, standing alone, does not suggest that the settlement is unfair.").

The *Grinnell* factors thus strongly support approval. In light of the risks and complexity involved, Class Counsel considers the Settlement to be an excellent result. *See* Kirkpatrick Decl. ¶ 17; *see also In re Hi-Crush Partners L.P. Sec. Litig.*, 2014 WL 7323417, at *5 (S.D.N.Y. Dec. 19, 2014) (affording "great weight" to favorable opinions of counsel, citing familiarity by virtue of experience and involvement in the case (citation omitted)).

c. <u>The Proposal Treats Class Members Equitably</u>

Rule 23(e)(2)(D) considers whether a settlement "treats class members equitably relative to each other." Courts recognize that "the adequacy of an allocation plan turns on whether counsel has properly apprised itself of the merits of all claims, and whether the proposed apportionment is fair and reasonable in light of that information." *In re PaineWebber Ltd. P'ships Litig.*, 171 F.R.D. 104, 133 (S.D.N.Y. 1997); *see also In re Telik, Inc. Sec. Litig.*, 576 F. Supp. 2d at 580 ("A reasonable plan may consider the relative strength and values of different categories of claims."). "Counsel's conclusion that the distribution plan is fair, adequate, and reasonable . . . is entitled to great weight." *Fleisher*, 2015 WL 10847814, at *12. Courts routinely grant final approval to plans of allocation proposed by the same counsel that compensate different categories of claims differently based on their relative strengths and weaknesses. *See, e.g.*, *Rodriguez v. CPI Aerostructures, Inc., et al.*, 2023 WL 2184496, at *12 & n.14 (E.D.N.Y. Feb. 16, 2023) (report and recommendation to grant final approval to plan of allocation proposed by lead counsel that allocated 75% of settlement funds to certain claims and 25% to other claims, based on relative strength); *see also id.* Case No. 1:20-cv-982 (E.D.N.Y.) (March 10, 2023 Minute Order Adopting Report and Recommendation); *Custom LED, LLC v. eBay, Inc.*, 2014 WL 2916871, at *7 (N.D. Cal. June 24, 2014) (granting final approval to plan of allocation proposed by class counsel where

1/3 of fund allocated to "significantly weaker" claims); *In re Ins. Brokerage Antitrust Litig.*, 282 F.R.D. 92, 116 (D.N.J. 2012) (granting final approval to plan of allocation proposed by class counsel that reflected "varying strengths" of claims); *In re Auto. Parts Antitrust Litig.*, Case No. 2:12-md-2311 (2:12-cv-00103) (E.D. Mich.), ECF No. 1473 (Oct. 11, 2016 Order) (granting Sept. 21, 2016, amended motion for final approval of plan of allocation (ECF No. 1463) proposed by same counsel providing for "certain purchases or leases being weighted more heavily based on the evaluation by Plaintiffs' Co-Lead Counsel of the relative strength and weakness of certain class member claims").

The Plan of Allocation, which Plaintiffs' Counsel recommends as fair, adequate, and reasonable, distributes the Net Settlement Fund to policyholders *pro rata* calculated from each one's share of the overall overcharges. It pays Class Members their *pro-rata* share for Address Update and Rate Update overcharges first—claims Defendants acknowledged and that carried less legal uncertainty—before distributing what remains *pro rata* to policyholders harmed by the more heavily contested Retaliatory Tax Rate Issue, which would have faced a motion to dismiss absent this Settlement. That structure gives the Plan the "reasonable, rational basis" that warrants approval as fair and reasonable. *See Fleisher*, 2015 WL 10847814, at *12 (quoting *Maley v. Del Glob. Techs. Corp.*, 186 F.Supp.2d 358, 367 (S.D.N.Y. 2002)).

B. <u>The Court Should Certify the Premium Tax Settlement Class</u>

The Court already conditionally certified the Premium Tax Settlement Class for settlement purposes in the Preliminary Approval Order. ECF No. 127. For the reasons set forth in Plaintiffs' Motion for Preliminary Approval and Class Certification (ECF No. 121), the Premium Tax Settlement Class continues to satisfy the requirements of Rule 23(a) and Rule 23(b)(3), and the Court should finally certify the Class for purposes of judgment on the Settlement. *See* Fed. R. Civ. P. 23(e)(2).

C. <u>The Notice Program Satisfied Rule 23 and Due Process</u>

Due process and Rule 23 require that the Class receive the best notice practicable under the circumstances, including individual notice to all members who can be identified through reasonable effort. Fed. R. Civ. P. 23(c)(2)(B); *Amchem Prods., Inc. v. Windsor*, 521 U.S. 591, 617 (1997). "To satisfy due process, class notice should be 'reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections.'" *In re Synchrony Fin. Sec. Litig.*, 2023 WL 4992933, at *3 (D. Conn. Aug. 4, 2023) (citation omitted). A settlement notice must also "fairly apprise the prospective members of the class of the terms of the proposed settlement and of the options that are open to them in connection with the proceedings." *Id.* (quoting *Wal-Mart Stores, Inc. v. Visa U.S.A., Inc.*, 396 F.3d 96, 114 (2d Cir. 2005)).

The Notice Program implemented here satisfies both standards. Pursuant to the Preliminary Approval Order, JND mailed the Class Notice by first-class U.S. mail on July 10, 2026 to the 56,472 Premium Tax Settlement Class Members identified on the Notice List. See Exs. B, C (Class Notices). Before mailing, JND ran the Notice List through the U.S. Postal Service's National Change of Address Database, re-mailed any notices returned with forwarding addresses, and conducted additional address verification searches to locate updated addresses for the remainder. Timm Decl. ¶ 9. As a result, JND successfully delivered notice to approximately 98% of the Class. Additionally, the Settlement has been reported by several third-party outlets.[5]

[5] *See, e.g.*, Top Class Actions, "$11M Hartford Premium Tax Charges Class Action Settlement," (Aug. 3, 2026), available at https://topclassactions.com/lawsuit-settlements/open-lawsuit-settlements/11m-hartford-premium-tax-charges-class-action-settlement/; Nicole Aljets, "Talcott & Hartford $11M Insurance Premium Fees Settlement," Claim Depo (Jul. 14, 2026), available at https://www.claimdepot.com/settlements/premium-tax-settlement; Daniel Harper, "A Hartford Insurance Unit Would Mail $11 Million in Refund Checks for a Premium-Tax Overcharge, With No Claim to File," Newsbreak (Aug. 21, 2026), available at https://www.newsbreak.com/the-

The Class Notice also satisfied Rule 23(c)(2)(B)'s content requirements: it described the terms of the Settlement, the Premium Tax Settlement Class, the Plan of Allocation, the general terms of the Fee and Expense Award and Incentive Award, and the date, time, and place of the Final Approval Hearing, and it informed Class Members of their rights to opt out of or object to the Settlement. ECF No. 126-1 (Revised Class Notice). JND also established a dedicated Settlement Website and toll-free telephone number, and served CAFA notice under 28 U.S.C. § 1715 on the appropriate state and federal officials. Timm Decl. ¶¶ 4–5, 10–14. Accordingly, the Notice Program constituted the best notice practicable under the circumstances and fully satisfied Rule 23 and due process.

D. <u>The Distribution Plan Is Fair and Reasonable</u>

The Plan of Allocation merits approval because it is fair and reasonable: it pays Class Members their *pro-rata* share for Address Update and Rate Update overcharges—which Defendants acknowledged and which carried less legal uncertainty—before distributing the remainder pro rata to Class Members harmed by the more heavily contested Retaliatory Tax Rate Issue. This structure is reinforced by the substantial overlap among the approximately 60,000 Premium Tax Settlement Class Policies that recover under both components of the Plan: the vast majority of policyholders with a Retaliatory Tax Rate claim also hold a Rate Update and/or Address Update claim, and both named Plaintiffs hold Retaliatory Tax Rate claims. *See In re Pet Food Prods. Liab. Litig.*, 629 F.3d 333, 347 (3d Cir. 2010) (rejecting adequacy objection premised on different allocations of the settlement proposed by class counsel because differences may properly "reflect the relative value of the different claims" and "[m]any class members are members of both allocation groups").

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money-overview-380442759/4841707573427-a-hartford-insurance-unit-would-mail-11-million-in-refund-checks-for-a-premium-tax-overcharge-with-no-claim-to-file.

The substantive result confirms that the Plan is fair, adequate, and reasonable. Class Members will receive, in cash and on a gross basis, 100% of the overcharges attributable to the Address Update and Rate Update claims; approximately 46% of historical overcharges attributable to the Retaliatory Tax Rate claim; and 100% of the prospective relief they could have obtained, as Defendants have agreed to stop using retaliatory taxes to calculate premium tax rate charges on a prospective basis. *See* Settlement Agreement § III.D; ECF No. 125 at 2–3. A 46% settlement-to-historical-damages ratio, combined with complete prospective relief, is an excellent result for a claim that this Court itself acknowledged turns upon "debatable" and "ambiguous" language. Ex. 3 (Hrg. Tr.) at 2:17–19. Accordingly, the Plan of Allocation is fair, reasonable, and adequate, and should be finally approved.

Furthermore, the Class Notice ultimately approved by the Court and disseminated to the Class expressly described the Plan of Allocation, including that Address Update and Rate Update overcharges would be paid before Retaliatory Tax Rate overcharges. *See* ECF No. 126-1 (Revised Class Notice). As discussed above, no Class Member has objected to the Settlement or the Plan of Allocation, and only one Class Member has requested exclusion. Timm Decl. ¶¶ 16, 18. This favorable reaction, following clear, plain-language notice of the differential allocation, further confirms that the Plan of Allocation treats Class Members equitably and should be finally approved.

E. <u>Certification Under Rule 54(b) Is Warranted</u>

The Court should certify its final approval as a partial final judgment. "Rule 54(b) authorizes a district court to enter partial final judgment when three requirements have been satisfied: (1) there are multiple claims or parties, (2) at least one claim or the rights and liabilities of at least one party has been finally determined, and (3) the court makes an express determination that there is no just reason for delay." *In re Payment Card Interchange Fee & Merch. Disc.*

Antitrust Litig., 2022 WL 2803352, at *3 (E.D.N.Y. July 18, 2022) (quoting *Linde v. Arab Bank, PLC*, 882 F.3d 314, 322–23 (2d Cir. 2018) (cleaned up)).

Here, the Premium Tax Class Settlement involves two of three claims in the case, and the two settled premium tax claims involve different issues than the ongoing COI claim. Because the settled claims are discrete, any appeal following final approval would involve issues different from those relating to the ongoing COI claim, so, there is no risk of piecemeal litigation. *See In re Ikon Off. Sols., Inc., Sec. Litig.*, 194 F.R.D. 166, 192 (E.D. Pa. 2000) (certifying partial class action settlement where "the remaining claims . . . are easily separable from the issues that might be appealed in this case, such as those pertaining to the plan of allocation").

Further, there is no just cause for delay because any delay would prevent the Premium Tax Settlement Class Members from receiving any settlement payments. *See, e.g.*, *Cromer Fin. Ltd. v. Berger*, 2002 WL 31388721 , at *2 (S.D.N.Y. Oct. 23, 2002) (explaining that partial final judgment under Rule 54(b) was warranted where class action settlement resolved all claims against some defendants, but others remained pending, because failing to do so would unjustly delay distribution of settlement proceeds); *In re Sept. 11 Litig.*, 2010 WL 3260141, at *1 (S.D.N.Y. July 23, 2010) (entering final judgment where "terms of the settlement agreement prevent the settling plaintiffs from receiving any payouts until final judgment is entered and the appeal period exhausted" because "[d]elay in the ability to execute on a settlement 'is exactly the sort of hardship and denial of justice through delay that rule 54(b) was designed to eliminate'' (quoting *Ginett v. Computer Task Group, Inc.*, 962 F.2d 1085, 1097 (2d Cir.1992))); *Laverty v. Savoy Indus., Inc.*, 1992 WL 296413, at *3 (S.D.N.Y. Oct. 6, 1992) (finding that "delay in finalizing the parties' settlement of the second cause of action would prevent its immediate enforcement and impose an unnecessary hardship on plaintiff").

IV. CONCLUSION

For the foregoing reasons, Plaintiffs Arbuckle Funding, LLC and Brighton Trustees LLC respectfully request that this Court enter an order and final judgment: (1) finally approving the Settlement and the Plan of Allocation as fair, reasonable, and adequate under Rule 23(e)(2); (2) finally certifying the Premium Tax Settlement Class; (3) finding that the Class Notice and the manner of its dissemination satisfied Rule 23 of the Federal Rules of Civil Procedure and due process; and (4) dismissing Counts II and III of the Fourth Amended Complaint against Defendants with prejudice and entering final judgment thereon pursuant to Federal Rule of Civil Procedure 54(b).

Dated: September 9, 2026

Respectfully submitted,

/s/ Ryan Kirkpatrick

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CERTIFICATE OF WORD COUNT

Pursuant to Local Civil Rule 7.1(c), I hereby certify that this brief contains 8,745 words and complies with the 8,750 word-count limitation.

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CERTIFICATE OF SERVICE

I hereby certify that, on September 9, 2026, I caused a true and correct copy of the foregoing to be electronically filed with the Clerk of the Court using the CM/ECF system which will send notification to the attorneys of record and is available for viewing and downloading.

/s/ Ryan Kirkpatrick
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