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*Attorneys for Irving H. Picard, Trustee for the
Substantively Consolidated SIPA Liquidation of
Bernard L. Madoff Investment Securities LLC
and the Chapter 7 Estate of Bernard L. Madoff*

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

Adv. Pro. No. 08-01789 (LGB)

SIPA Liquidation

(Substantively Consolidated)

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the Substantively
Consolidated SIPA Liquidation of Bernard L. Madoff
Investment Securities LLC and the Chapter 7 Estate of
Bernard L. Madoff,

Plaintiff,

v.

Banco Bilbao Vizcaya Argentaria, S.A.,

Defendant.

Adv. Pro. No. 10-05351 (CGM)

**STIPULATION AND ORDER REGARDING FILING OF AMENDED COMPLAINT
AND BRIEFING SCHEDULE ON MOTION TO DISMISS**

The plaintiff, Irving H. Picard (the “Trustee”), as trustee of the substantively consolidated liquidation proceeding of Bernard L. Madoff Investment Securities LLC under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa–lll, and the chapter 7 estate of Bernard L. Madoff, and the defendant, Banco Bilbao Vizcaya Argentaria, S.A. (“BBVA” or “Defendant,” and with the Trustee, the “Parties”), by and through their respective undersigned counsel, state as follows:

WHEREAS, on December 8, 2010, the Trustee filed a complaint in the above-captioned action against BBVA in this Court, asserting numerous bankruptcy and related state law claims;

WHEREAS, the Trustee now seeks to amend his complaint to add transfers not sought in the original complaint (the “New Transfers”);

WHEREAS, Defendant intends to file a motion to dismiss under Federal Rule of Civil Procedure 12(b) to seek dismissal of the amended complaint on other grounds, including, without limitation, failure to state a claim; and

WHEREAS, Defendant therefore wishes to consent to the Trustee’s filing of an amended complaint in the form forwarded by the Trustee to Defendant on June 25, 2024, subject to and conditioned on the right of Defendant to file a motion to dismiss and otherwise oppose any and all claims asserted in the amended complaint, including, without limitation, on the grounds that the New Transfers are barred by the relevant statute of limitations;

IT IS HEREBY STIPULATED AND AGREED that:

1. The Trustee shall file the amended complaint against Defendant in final form (which shall be filed in the form of the draft amended complaint provided to Defendant’s counsel on June 25, 2024) (the “Amended Complaint”) on or before **July 31, 2024**.

2. Defendant shall file a motion to dismiss the Amended Complaint on or before **September 11, 2024**. The Trustee shall file any opposition to Defendant’s motion to dismiss on

or before **November 8, 2024**. Defendant shall file any reply brief in support of its motion to dismiss on or before **December 11, 2024**.

3. The Parties shall schedule the motion for hearing at the Court's December 18, 2024, omnibus hearing date, subject to the availability of undersigned counsel for the parties.

4. The Parties reserve all rights, arguments, objections, and defenses they may have, including, without limitation, that any claims raised in the Amended Complaint are barred by the relevant statute of limitations, that Defendant is not subject to this Court's personal jurisdiction, and that the Trustee has failed to state a claim in the Amended Claimant, and entry into this Stipulation shall not impair or otherwise affect such rights, arguments, objections, and defenses. For the avoidance of doubt, the Trustee hereby waives any argument that by entering into this Stipulation and/or by consenting to amendment of the complaint, Defendant has waived any right to seek dismissal of the Amended Complaint on any grounds.

5. The above deadlines set by this Stipulation and Order are without prejudice to any party seeking future extensions of time.

[Signatures on following page]

Dated: July 29, 2024
New York, New York

/s/ Brian W. Song

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/s/ Christian Vandergeest

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Dated: July 30, 2024
Poughkeepsie, New York



/s/ Cecelia G. Morris

Hon. Cecelia G. Morris
U.S. Bankruptcy Judge