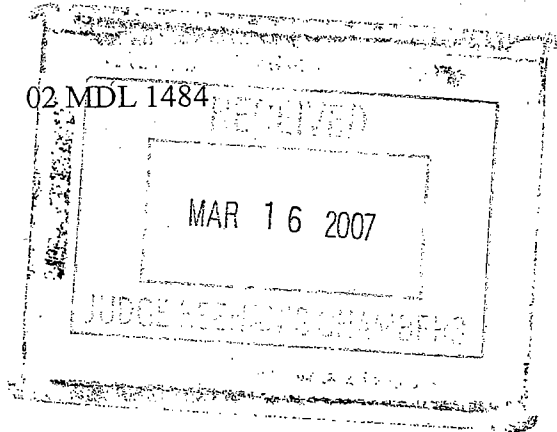


MAR 20 2007

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IN RE MERRILL LYNCH & CO., INC. :
RESEARCH REPORTS SECURITIES :
LITIGATION :

This Document Relates to: :
All Actions on Schedule 1 :



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**[PROPOSED] AMENDED PRELIMINARY ORDER IN CONNECTION
WITH SETTLEMENT PROCEEDINGS**

WHEREAS, effective January 11, 2007, the Co-Chairs of Plaintiffs' Executive Committee of Lead Counsel and Plaintiffs' Liaison Counsel (collectively, the "Co-Chairs"¹) on behalf of Lead Plaintiffs and the Classes, and Defendants Merrill Lynch & Co., Inc. ("ML & Co."), Merrill Lynch, Pierce Fenner & Smith Incorporated ("MLPF&S"), B2B HOLDRs/SM Trust, Internet Architecture HOLDRs/SM Trust, Internet HOLDRs/SM Trust and Internet Infrastructure HOLDRs/SM Trust (collectively, the "Merrill Lynch Defendants") and Henry M. Blodget, Virginia Syer Genereux, John L. Steffens, E. Stanley O'Neal, George A. Schieren, Ahmass L. Fakahany, Thomas A. Patrick, Dominic A. Carone and Michael J. Castellano, (the "Individual Defendants") have entered into a settlement of the claims asserted in the actions listed on Schedule 1 (the "Actions"), the terms of which are set forth in a Stipulation and Agreement of Settlement, dated as of January 11, 2007 (the "Settlement Stipulation"), which is subject to review under Rule 23 of the Federal Rules of Civil Procedure and which, together with

^{1/} The Co-Chairs specifically refers to the law firms of Cohen, Milstein, Hausfeld & Toll, P.L.L.C.; Kaplan Fox & Kilsheimer LLP; Murray, Frank & Sailer LLP; and Shapiro Haber & Urmy, LLP.

the exhibits thereto, sets forth the terms and conditions for the proposed settlement of the claims alleged in the Complaints filed in the Actions on the merits and with prejudice, upon the terms and conditions set forth in the Settlement Stipulation; and the Court having read and considered the Settlement Stipulation, the proposed Notice of Pendency of Class Action and Proposed Settlement, the proposed Summary Notice of Pendency and Proposed Settlement of Class Action, the proposed Plan of Allocation of Net Settlement Fund Among Class Members, the proposed form of the Proof of Claim and Release, the proposed form of Order and Final Judgment relating to the Settlement, and finding that substantial and sufficient grounds exist for entering this Order; and capitalized terms used herein having the meanings defined in the Settlement Stipulation;

NOW, THEREFORE, IT IS HEREBY ORDERED, this _____ day of _____, 2007, that:

1. Pursuant to Rule 23(a) and (b)(3) of the Federal Rules of Civil Procedure and for the purposes of the Settlement only, each of the Actions on Schedule 1 are hereby preliminarily certified as class actions on behalf of all persons who purchased the securities of the issuers identified on Schedule 1 during the periods set forth on Schedule 1 of the Settlement Stipulation. The "Classes" include the Class Members collectively as well as each Class Member acting individually. Excluded from the Classes are (i) the Defendants, (ii) the heirs and members of the immediate family of any Individual Defendant, (iii) the parents, subsidiaries, affiliates, officers and directors of any of the Defendants; (iv) any person, firm, trust, corporation or entity in which any Defendant has a controlling interest; and (v) the successors and assigns of any excluded party. Also excluded from the Classes are any putative Class Members who exclude themselves by filing a timely, valid request for exclusion.

2. The Court finds, preliminarily and for purposes of Settlement only, that the

prerequisites for a class action under Rules 23(a) and (b)(3) of the Federal Rules of Civil Procedure have been satisfied in that: (a) the number of Class Members is so numerous that joinder of all members of those Classes is impracticable; (b) there are questions of law and fact common to each of the Classes; (c) the claims of the Lead Plaintiffs are typical of the claims of the Classes they seek to represent; (d) the Lead Plaintiffs will fairly and adequately represent the interests of the Classes; (e) the questions of law and fact common to the members of the Classes predominate over any questions affecting only individual members of the Classes; and (f) a class action is superior to other available methods for the fair and efficient adjudication of the controversy.

3. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, preliminarily and for the purposes of Settlement only, Lead Plaintiffs are certified as the class representatives on behalf of each of their respective classes and the Lead Counsel previously selected by Lead Plaintiffs and appointed by the Court are hereby appointed as Lead Counsel for the Classes.

4. A hearing (the "Settlement Fairness Hearing") pursuant to Federal Rule of Civil Procedure 23(e) is hereby scheduled to be held before the Court on July 18, 2007, at 11:00 a.m. for the following purposes:

- (a) to finally determine whether these Actions satisfy the applicable prerequisites for class action treatment under Federal Rules of Civil Procedure 23(a) and (b);
- (b) to determine whether the Settlement is fair, reasonable, and adequate, and should be approved by the Court;
- (c) to determine whether the Order and Final Judgment as provided under the Settlement Stipulation should be entered, dismissing the Complaints, on the merits and with prejudice, and to determine whether the release by the Classes of the Released Parties, as set

forth in the Settlement Stipulation, should be ordered;

(d) to determine whether the proposed Plan of Allocation for the proceeds of the Settlement are fair and reasonable and should be approved by the Court;

(e) to consider the application of the Co-Chairs for an award of attorneys' fees and expenses; and

(f) to rule upon such other matters as the Court may deem appropriate.

5. The Court reserves the right to approve the Settlement with or without modification and with or without further notice of any kind. The Court further reserves the right to enter its Order and Final Judgment approving the Settlement Stipulation and dismissing the Complaints, on the merits and with prejudice, regardless of whether it has approved the Plan of Allocation or awarded attorneys' fees and expenses.

6. The Court approves the form, substance and requirements of (a) the Notice of Pendency of Class Action and Proposed Settlement (the "Notice"), and (b) the Proof of Claim and Release form (the "Proof of Claim"), both of which are annexed hereto as Exhibits 1 and 2 respectively.

7. The Co-Chairs have the authority to enter into the Settlement Stipulation and the Settlement on behalf of the Classes and are authorized to act on behalf of the members of the Classes with respect to all acts or consents required by or that may be given pursuant to the Settlement of Stipulation or such other acts that are reasonably necessary to consummate the Settlement.

8. The Co-Chairs shall cause the Notice and the Proof of Claim, substantially in the forms annexed hereto, to be mailed, by first class mail, postage prepaid, on or before April 3, 2007, to all Class Members who can be identified with reasonable effort by the Co-Chairs.

9. The Co-Chairs are authorized to establish a Notice and Administration Fund (as defined in the Settlement Stipulation) of \$ 4 million to be used for reasonable out-of-pocket costs in connection with providing notice of the Settlement to the Classes and for other reasonable out-of-pocket administrative expenses. Upon written agreement of the parties, or order of the Court, additional amounts may be transferred from the Settlement Fund to the Notice and Administration Fund.

10. Any and all issuers, securities firms or transfer agents holding transfer records for each security listed on Schedule 1 of the Settlement Stipulation are hereby ordered to produce such transfer records in a usable electronic format to the Co-Chairs or their designated agent within 20 days of receipt of a copy of this Order.

11. The Co-Chairs shall also make reasonable efforts to give notice to nominee owners such as brokerage firms and other persons or entities who purchased any of the Schedule 1 securities during the relevant putative class periods. Such nominee purchasers are directed to forward copies of the Notice and Proof of Claim to their beneficial owners or to provide the Claims Administrator with lists of the names and addresses of the beneficial owners and the Claims Administrator is ordered to send the Notice and Proof of Claim promptly to such beneficial owners. Additional copies of the Notice shall be made available to any record holder requesting same for the purpose of distribution to beneficial owners, and such record holders shall be reimbursed from the Settlement Fund, upon receipt by the Claims Administrator of proper documentation, for the reasonable expense of sending the Notices and Proof of Claim to beneficial owners. The Co-Chairs shall, at or before the Settlement Fairness Hearing, serve upon Defendants' Counsel, and file with the Court, proof of mailing of the Notice and Proof of Claim.

12. The Court approves the form of the Summary Notice of Pendency of Class Action

Proposed Settlement (the "Publication Notice") in substantially the form and content annexed hereto as Exhibit 3 and directs that the Co-Chairs shall cause the Publication Notice to be published in *The Wall Street Journal* and *USA Today* and published electronically on the *PR Newswire* within two weeks of the mailing of the Notice. The Co-Chairs shall, at or before the Settlement Fairness Hearing, serve upon Defendants' Counsel and file with the Court proof of publication of the Publication Notice.

13. The form and method set forth herein of notifying the Classes of the Settlement and its terms and conditions meet the requirements of due process and Rule 23 of the Federal Rules of Civil Procedure, Section 21D(a)(7) of the Exchange Act, 15 U.S.C. 78u-4(a)(7), as amended by the Private Securities Litigation Reform Act of 1995, constitutes the best notice practicable under the circumstances, and shall constitute due and sufficient notice to all persons and entities entitled thereto. Under no circumstances shall any Class Member be relieved from the terms of the Settlement, including the releases provided for therein, based upon the contention or proof that such Class Member failed to receive actual or adequate notice.

14. In order to be entitled to participate in the Net Settlement Fund, as defined in the Settlement Stipulation, in the event the Settlement is effected in accordance with all of the terms and conditions thereof, each Class Member shall take the following actions and be subject to the following conditions:

(a) A properly executed Proof of Claim (the "Proof of Claim"), substantially in the form attached hereto as Exhibit 2, must be submitted to the Claims Administrator, at the Post Office Box indicated in the Notice, postmarked not later than August 31, 2007. Such deadline may be further extended by Order of the Court. Each Proof of Claim shall be deemed to have been submitted when postmarked (if properly addressed and mailed by first class mail)

provided such Proof of Claim is actually received prior to the filing of a motion for an Order of the Court approving distribution of the Net Settlement Fund. Any Proof of Claim submitted in any other manner shall be deemed to have been submitted when it was actually received at the address designated in the Notice.

(b) The Proof of Claim submitted by each Class Member must satisfy the following conditions: (i) it must be properly filled out, signed and submitted in a timely manner in accordance with the provisions of the preceding subparagraph; (ii) it must be accompanied by adequate supporting documentation for the transactions reported therein, in the form of broker confirmation slips, broker account statements, an authorized statement from the broker containing the transactional information found in a broker confirmation slip, or such other documentation as is deemed adequate by the Co-Chairs; (iii) if the person executing the Proof of Claim is acting in a representative capacity, a certification of his current authority to act on behalf of the Class Member must be included in the Proof of Claim; and (iv) the Proof of Claim must be complete and contain no material deletions or modifications of any of the printed matter contained therein and must be signed under penalty of perjury.

(c) Once the Claims Administrator has considered a timely submitted Proof of Claim, the Co-Chairs, through the Claims Administrator, shall determine, based upon the Plan of Allocation of Net Settlement Fund, whether such claim is valid, deficient or rejected. For each claim determined to be either deficient or rejected, the Claims Administrator shall send a deficiency letter or rejection letter as appropriate, describing the basis on which the claim was so determined.

(d) As part of the Proof of Claim, each Class Member shall submit to the jurisdiction of the Court with respect to the claim submitted.

15. Class Members shall be bound by all determinations and judgments in the Actions, whether favorable or unfavorable, unless such persons request exclusion from the Classes in a timely and proper manner, as hereinafter provided. A Class Member wishing to make such request shall mail the request in written form, by first class mail, postage prepaid, and postmarked no later than May 18, 2007 to the Post Office Box address listed in the Notice. Such request for exclusion shall clearly indicate the name and address of the person seeking exclusion, that the sender specifically requests to be excluded from the relevant one or more of the twenty Classes listed on Schedule 1, and must be signed by such person. Such persons requesting exclusion are also required to specify all purchases of the relevant securities during the time periods defined for each Class, including the number and price of the shares purchased, the number and price of shares sold during the relevant time period defined for the Class or thereafter, and the date of each such purchase or sale. It is also requested that such persons provide their telephone number or other contact information. The request for exclusion shall not be effective unless the request for exclusion provides the required information and is made within the time stated above, or the exclusion is otherwise accepted by the Court.

16. Class Members requesting exclusion from the Classes shall not be entitled to receive any payment out of the Net Settlement Fund as described in the Settlement Stipulation and Notice.

17. The Court will consider comments and/or objections to the Settlement, the Plan of Allocation, or the award of attorneys' fees and reimbursement of expenses only if such comments or objections and any supporting papers are served, on or before May 18, 2007, upon each of the following:

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New York, New York 10022
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Attorneys for Defendant Virginia Syer
Genereux

And the objector has filed said objections, papers and briefs, showing due proof of service upon counsel identified above, with the Clerk of the Court, United States District Court for the Southern District of New York, U.S. Courthouse, 500 Pearl Street, New York, New York 10007-1312. Attendance at the 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 Co-Chairs' request for attorneys' fees are required to indicate in their written objection their intention to appear at the hearing. Persons who intend to object to the Settlement, the Plan of Allocation, and/or the Co-Chairs' application for award of attorneys' fees and expenses and desire to present

evidence at the Settlement Fairness Hearing must include in their written objections the identity of any witnesses they may call to testify and exhibits they intend to introduce into evidence at the Settlement Fairness Hearing. Class Members do not need to appear at the hearing or take any other action to indicate their approval.

18. Any Class Member who does not object in the manner prescribed above shall be deemed to have waived all such objections and shall forever be foreclosed from making any objection to the fairness, adequacy or reasonableness of the Settlement, the Order and Final Judgment to be entered approving the Settlement, the Plan of Allocation, or the Co-Chairs' application for an award of attorneys' fees and reimbursement of expenses.

19. Pursuant to the July 18, 2006 conference with the parties and the Court, the following actions are either consolidated or dismissed:

(a) the action captioned Ciemny v. Merrill Lynch, Pierce Fenner & Smith, Inc. et al., 02-CV-8471(JFK) is consolidated with In re Merrill Lynch & Co., Inc. B2B HOLDRS Securities Litigation, 02-CV-5002(JFK);

(b) the action captioned Larkin v. Merrill Lynch & Co., Inc. and Henry Blodget, 02-CV-9489(JFK) is consolidated with In re Merrill Lynch & Co., Inc. Internet Infrastructure HOLDRS Securities Litigation, 02-CV-4242(JFK);

(c) the action captioned Wilhelm v. Merrill Lynch & Co., Inc. and Henry Blodget, 02-CV-9494(JFK) is consolidated with In re Merrill Lynch & Co., Inc. Aether Systems Research Reports Securities Litigation, 02-CV-3452(JFK);

(d) the actions captioned Jennings v. Merrill Lynch & Co., Inc. and Henry Blodget, 03-CV-0640(JFK) and Firebaugh v. Merrill Lynch & Co., Inc. and Henry Blodget, 03-CV-0641(JFK) are consolidated with In re Merrill Lynch & Co., Inc. eToys Research Reports Securities Litigation, 02-CV-6645(JFK);

(e) the action captioned Brasher v. Merrill Lynch & Co., Inc. et al., 03-CV-1281(JFK) is consolidated with In re Merrill Lynch & Co., Inc. Excite@Home, Inc. Research Reports Securities Litigation, 02-CV-3042(JFK).

(f) the action captioned Stokes v. Merrill Lynch, Pierce, Fenner & Smith Inc., et al., 03-CV-0642(JFK) is dismissed;

(g) the action captioned Cleary v. Merrill Lynch Securities, 02-CV-8473(JFK) is dismissed; and

(h) the action captioned Doe v. Merrill Lynch & Co., Inc. et al., 02-CV-9940(JFK) is dismissed.

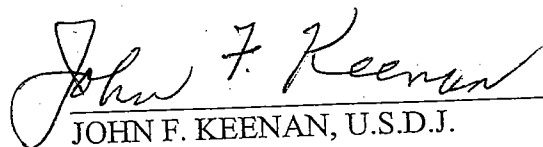
20. The Court reserves the right to adjourn the Settlement Hearing or any adjournment thereof without any further notice other than an announcement at the Settlement Hearing or any adjournment thereof, and to approve the Settlement without further notice to the Classes.

21. Pending final determination of whether the Settlement should be approved, all Class Members, and each of them, and anyone who acts or purports to act on their behalf shall not institute, commence or prosecute any action which asserts Released Claims against any of the Released Parties.

22. In the event that the Settlement shall not be consummated pursuant to its terms, the Settlement Stipulation, including any amendment(s) thereto, and this Preliminary Order in Connection With Settlement Proceedings, shall be null and void, of no further force or effect, and without prejudice to any party, and may not be introduced as evidence or referred to in any actions or proceedings by any person or entity, and each party shall be restored to his, her or its respective position as it existed prior to the execution of the Settlement Stipulation.

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

Dated: New York, New York
March 19, 2007


JOHN F. KEENAN, U.S.D.J.