

[informal translation from Dutch]

Amsterdam Court of Appeal

Date: 12 December 2017

Case number: 200.191.713/01

SUBMISSION AFTER INTERIM JUDGMENT

in the matter of:

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1 INTRODUCTION

1. In its interim judgment of 16 June 2017 the Court of Appeal flagged a number of objections that prevent the Settlement Agreement from being declared binding. These objections are as follows.
 - The distinction made in the Settlement Agreement between Active Claimants and Non-Active Claimants causes the compensation levels not to be reasonable.¹
 - The distinction made in the Settlement Agreement between Active Claimants and Non-Active Claimants causes the interests of Eligible Shareholders (also taking into account the compensation for the representative organisations) not to be sufficiently safeguarded in the material sense.²
 - The release provision is too broad. in terms of effect. The scope of the release does not match a sufficiently clear description of the events to which the agreement applies.³
 - The provision concerning the money flows through the representative organisations needs to be amended such that a condition for applicability thereof is that an independent third-party supervises the processing of payments and that use is made of a third-party account or a notarial client account.⁴
2. The Court of Appeal has given Petitioners the opportunity to consult with each other in order to investigate whether, taking into account what has been considered in the interim judgment, an amended settlement can be achieved. The Court of Appeal has requested Petitioners to include the following elements in their consultation:⁵
 - A modification of the box system.

¹ Interim judgment of 16 June 2017, paragraph 11.3.

² Interim judgment of 16 June 2017, paragraph 11.3.

³ Interim judgment of 16 June 2017, paragraph 10.9, 11.2. Also see paragraph 9.7, 9.8.

⁴ Interim judgment of 16 June 2017, paragraph 10.9, 11.1. Also see paragraph 9.3.

⁵ Interim judgment of 16 June 2017, paragraph 10.9.

- A further motivation and amendment of the compensation awarded for acting as Active Claimant (also related to particular damage or costs).
 - An amendment of the release provision and/or a modification of the description of the events to which the agreement applies.
 - An amendment of the provision concerning the money flows via the representative organisations.
 - A reconsideration with respect to the compensations for the representative organisations.
3. Petitioners have made use of the opportunity granted to them by the Court of Appeal to consult and renegotiate about a revised settlement. The result thereof is an amended settlement agreement (the "**Amended and Restated Settlement Agreement**"), attached to this submission as **Annex 29**. The (first) Settlement Agreement presented to this Court of Appeal and entered into on 14 March 2016, will hereinafter be referred to as the "**Original Settlement Agreement**".
4. The Amended and Restated Settlement Agreement is the fruit of an utmost collective effort of all Petitioners. Ageas was prepared to increase the total settlement amount (which was already the highest settlement amount ever offered in a Dutch WCAM settlement and which is also by international standards very high) by an additional sum of over EUR 100 million. The total settlement amount thereby represents a very significant part of the value of Ageas. Additionally, the representative organisations have contributed to a more balanced compensation of the Active Claimants on the one hand and the other Eligible Shareholders on the other hand. On the basis of economic analyses it is certain that the settlement as laid down in the Amended and Restated Settlement Agreement provides its beneficiaries the prospect of an indubitably reasonable compensation, as is explained in more detail in the report by Analysis Group of 12 December 2017 which is submitted as **Annex 30** to this submission. As Petitioners will explain below, the Amended and Restated Settlement Agreement accommodates on essential points the Court of Appeal's objections

and there are genuine and significant improvements when compared to the settlement set out in the Original Settlement Agreement.

5. In broad terms, these improvements are the following: according to the Amended and Restated Settlement Agreement all Eligible Shareholders, whether or not Active Claimants, receive the same (and, from the perspective of those formerly called Non-Active Claimants, also considerably increased) compensation and in the same way share in the dilution risk. Moreover, in the relationship between so-called Buyers (those who acquired shares in the periods at issue) and so-called Holders (those who did not purchase shares in the periods at issue, but retained them) Buyers are more protected against a possible dilution risk than was the case under the Original Settlement Agreement (see paragraph 3.3 below). Furthermore, in the event of a lower take-up rate, a higher compensation will be distributed pro rata to both Active Claimants and other Eligible Shareholders. In addition, every (former) shareholder who held shares in the given period in 2007-2008 is entitled to a fixed basic compensation up to a maximum of EUR 950 (see no. 12 and no. 30 below). Lastly, Ageas has exerted maximum efforts to ensure that all beneficiaries under the Amended and Restated Settlement Agreement will receive a very substantial part of the compensation within the shortest possible time after the binding declaration (see no. 17 and paragraph 3.5 below).
6. The amendments concern significant improvements compared to the Original Settlement Agreement. Accordingly, the Amended and Restated Settlement Agreement offers a without a doubt reasonable compensation to more than 150,000 potential beneficiaries. They and Ageas have a major and justified interest in the implementation of the Amended and Restated Settlement Agreement on the basis of a binding declaration by the Court of Appeal. Thereby, after more than ten years, the book of Fortis can finally be closed.
7. Hereinafter Petitioners explain the most important elements of the Amended and Restated Settlement Agreement. Chapter 2 discusses the most important changes compared to the Original Settlement Agreement. Chapter 3 explains the reasonableness of the compensation. Chapter 4 examines the representativeness of the representative organisations and chapter 5 discusses some other

elements of the Amended and Restated Settlement Agreement. Chapter 6 includes a brief summary and the application to the Court of Appeal seeking a binding declaration of the Amended and Restated Settlement Agreement.

8. Unless stated otherwise, the definitions used in this submission have the same meaning as in the petition which was filed on 20 May 2016 and in the submissions which Petitioners subsequently filed with the Court of Appeal.⁶

2 THE AMENDED AND RESTATED SETTLEMENT AGREEMENT

2.1 Introduction

9. This chapter describes the most important changes in the Amended and Restated Settlement Agreement. In essence these may be summarised as follows.
 - The distinction between active and non-active claimants has been dropped when it comes to compensation of damage (see no. 11-13 and paragraph 3.3).
 - The total settlement amount available has been increased by over EUR 100 million (see no. 11 and paragraph 3.3).
 - With this amount the compensation per share per Eligible Shareholder has in general been increased (see paragraph 3.2-3.3 and more specifically nos. 28 and 29), as a result of which, among other things, the Eligible Shareholders who were qualified in the Original Settlement Agreement as 'Non-Active Claimants' to receive a higher compensation under the Amended and Restated Settlement Agreement.
 - Active Claimants are still entitled to an additional compensation (the so-called "**Cost Addition**"), but this has been strongly reduced and solely serves to compensate their costs and effort (see no. 13 and paragraph 3.4). The Cost Addition is justified on

⁶ Including the submission after case management hearing dated 20 October 2016 and the submission of additional annexes with accompanying explanation dated 24 February 2017.

objective grounds and is significantly lower than the supplementary amount for Active Claimants under the Original Settlement Agreement.

- The release provision has been restricted and clarified by an amendment of the definition of the Events (see no. 22 and paragraph 5.2).

10. The table below provides first of all an overview of the formal requirements of article 7:907(2) DCC regarding the content of a settlement agreement (and on a binding declaration thereof). The table also includes references to provisions of the Amended and Restated Settlement Agreement and to the paragraphs or numbers of this submission and the petition of 20 May 2016 in which one and the other is explained.

Requirement	Amended SA	Submission / Petition
A description of the event or events to which the agreement pertains, article 7:907(2)(a) DCC	Recital C	Submission, no. 22 Petition, nos. 45 – 56 and 64
A description of the group or groups of persons on whose behalf the agreement has been concluded according to the nature and the seriousness of their damage, article 7:907(2)(b) DCC	Recital H; definition "Active Claimant"	Submission, nos. 20 – 21 Petition, paragraph 6.3
A description, as accurate as possible, of the number of persons belonging to this group or these groups, article 7:907(2)(c) DCC	Recital J	Petition, no. 68
The compensation awarded to these persons, article 7:907(2)(d) DCC	Article 4.1.2 and Schedule 2 (Settlement Distribution Plan), par. 2, 3, 4	Submission, no. 11 – 13, 15 Petition, no. 70
The conditions with which these persons must comply in order to be eligible for this compensation, article 7:907(2)(e) DCC	Article 4.3; Schedule 2 (Settlement Distribution Plan), par. 1	Submission, no. 15– 18

Requirement	Amended SA	Submission / Petition
The manner in which the compensation is determined and can be obtained, article 7:907(2)(f) DCC	Article 4.1.2 and Schedule 2 (Settlement Distribution Plan), par. 1 – 8	Submission, no. 15 - 18
The names and addresses of the person to whom the written communication referred to in article 908(2) and (3) can be made, article 7:907(2)(f) DCC	Definition "Claims Administrator"	n/a

2.2 Further explanation

The Settlement Amount has been increased by over EUR 100 million

11. The total amount that is made available to Eligible Shareholders under the Amended and Restated Settlement Agreement (the "**Settlement Amount**") has been increased by EUR 104,800,000. The Settlement Amount therefore now amounts to **EUR 1,308,500,000**. Of this a sum of EUR 507,700,000 is available to Buyers and a sum of EUR 572,600,000 is available to Holders. In this context it should be remembered (i) that there are many more Holders than Buyers, (ii) that Buyers are therefore expressly protected against dilution by Holders, and (iii) that Buyers in a given period will often also be Holders in another period and their compensation will therefore increase correspondingly in line with the amount to which Holders are entitled in those other periods.
12. In addition to the foregoing, all Eligible Shareholders who held shares in Fortis at any moment during the period starting on 28 February 2007 (c.o.b.) and ending on 14 October 2008 (c.o.b.) will receive a basic compensation, for which a budget of EUR 76,200,000 has been reserved. This basic compensation is referred to in the Amended and Restated Settlement Agreement as the "**Compensation Add-On**". As explained above, in this respect there is *no* longer a distinction made between Active Claimants and Non-Active Claimants. Also, the separate supplementary basic compensation for Active Claimants for

each Fortis Share purchased or held during the specified period (as set out in paragraph 3.3 'old' of the Settlement Distribution Plan) has been dropped.

13. Lastly, a portion of the Settlement Amount is made available to Active Claimants to compensate costs incurred and the time and effort invested in supporting the actions (collective or otherwise) and the concomitant costs: the so-called Cost Addition. The Cost Addition is capped at EUR 152,000,000 and therefore does not amount to more than about 12 per cent of the total budget made available by Ageas of EUR 1,308,500,000. The Cost Addition is a one-off compensation that has been realized also with a view to the obligation of a substantial number of Active Claimants to pay a fee to the representative organisations they have joined which equals 20 per cent or more of the compensation received by them. This will not apply to all Active Claimants but in a settlement of this nature and magnitude it would be infeasible to establish precisely for each individual beneficiary what his or her position, rights and obligations are. For further details concerning the Cost Addition see paragraph 3.4 below.

Relevant Periods

14. The methodology of the Original Settlement Agreement in terms of the Relevant Periods has remained unchanged, subject to the proviso that the amounts that are paid per Period have been considerably increased in respect of the amounts awarded to 'Non-Active Buyers' under the Original Settlement Agreement and in addition apply equally to *all* Eligible Shareholders. This is further explained in paragraph 3.3 below.

Amended Settlement Distribution Plan

15. The Settlement Amount will be divided and distributed in line with the Amended and Restated Settlement Agreement and the concomitant Settlement Distribution Plan that reflects this agreement. The

Settlement Distribution Plan is appended as Schedule 2 attached to the Amended and Restated Settlement Agreement.

Distribution Arrangements

16. Assuming that the Amended and Restated Settlement Agreement will be declared binding and will not be terminated, the Settlement Amount will be divided on the basis of the claim forms submitted by the Eligible Shareholders ("**Claim Forms**"). A draft Claim Form has been submitted to the Court of Appeal on 20 October 2016. Petitioners will update this draft and submit the updated draft as soon as possible. All Eligible Shareholders, except for the Excluded Persons, who have submitted a correct and complete Claim Form in time will receive a compensation. The Claims Administrator will, under the supervision of the Stichting, ensure that this takes place in accordance with the Amended and Restated Settlement Agreement.
17. In paragraph 6 of the Settlement Distribution Plan it is stated that distributions are to be made to all Eligible Shareholders entitled to a compensation within the shortest possible time after the binding declaration. In the Original Settlement Agreement this was only to take place after the opt-out period had expired. These distributions concern 70 per cent of the compensation initially determined by the Claims Administrator (in which any pro rata reductions or increases are not yet taken into account). By not yet paying out the full sum, but a part thereof, an allowance is made for any pro rata increases or pro rata reductions after distribution. All Eligible Shareholders who have filed a valid Claim Form before the end of the opt-out period qualify for this accelerated payment. This payment is unconditional provided that a release has been granted: if Ageas were to terminate the Amended and Restated Settlement Agreement because the Opt-Out Amount exceeds the given percentage, then all Eligible Shareholders qualifying for the accelerated payment retain, if they have granted a release, the 70 per cent concerned and this payment is also supplemented to 100 per cent of the compensation initially set.
18. The remainder of the compensations going to Eligible Shareholders will be distributed as soon as reasonably possible in accordance with the principles as formulated in the Settlement Distribution Plan, after

the Claims Administrator has been able to take a final decision on the level of the total amount claimed (paragraph 7 of the Settlement Distribution Plan).

19. Paragraph 5.2.3 of the Settlement Distribution Plan finally stipulates that if, 36 months after the Amended and Restated Settlement Agreement has been declared binding, the total amount claimed is lower than the Settlement Amount, this remainder will be paid back to Ageas in accordance with article 7:910(2) DCC.

Beneficiaries

20. The beneficiaries under the Amended and Restated Settlement Agreement are the same as the beneficiaries under the Original Settlement Agreement: all persons who qualify as Eligible Shareholder. The definition of Eligible Shareholder remains unchanged.
21. Under the definition as included in the Original Settlement Agreement, previously three groups of (former) shareholders were involved: Active Claimants, Non-Active Claimants and Excluded Persons. The definition of Non-Active Claimants has been dropped. The starting point under the Amended and Restated Settlement Agreement is that all Eligible Shareholders are entitled to the same basic compensation. The definition of Active Claimant has been retained, but only because of the fact that Active Claimants are entitled to a compensation for risks and costs (the Cost Addition; see no. 13 above and paragraph 3.4 below). Moreover, the definition of Active Claimant has been expanded. An Eligible Shareholder now also qualifies as Active Claimant if that person prior to 31 December 2014 joined an organisation that commenced a legal action against Ageas (or one of the other Releasees) prior to the oral hearing in these proceedings. The definition of Excluded Persons remains unchanged.

Events to which the Amended and Restated Settlement Agreement refers

22. Recital C of the Amended and Restated Settlement Agreement incorporates a more specific description of the events to which the

present settlement refers, in accordance with article 7:907(1) DCC read in conjunction with article 1013 paragraph(1)(b) DCCP. Having due regard to the Court of Appeal's comments, Petitioners have amended the description so as to make this clearer and more precise. This is explained in more detail in paragraph 5.2 of this submission.

Other changes

23. In the Settlement Distribution Plan it is, as was the case in the Original Settlement Agreement, explicitly stated that Eligible Shareholders who are members of the representative organisations may choose to receive their compensation, if any, through the organisation in question. Following the considerations of the Court of Appeal on this matter, Petitioners have further specified the conditions for such payments. This is explained in more detail in paragraph 5.1 of this submission.

3 REASONABLENESS OF THE COMPENSATION

3.1 Introduction

24. With due regard to the considerations of the Court of Appeal, Petitioners have reached agreement on the Amended and Restated Settlement Agreement that is now being presented. This chapter examines the reasonableness of the compensations awarded to Eligible Shareholders under the Amended and Restated Settlement Agreement.

25. In substantiation of the reasonableness of the compensations offered under the Amended and Restated Settlement Agreement Petitioners submit an analysis by Analysis Group as Annex 30 to this submission.

3.2 The Settlement Amount has been increased

26. Ageas has increased the Settlement Amount by EUR 104,800,000. With the Amended and Restated Settlement Agreement Ageas makes available EUR 1,308,500,000 to the Eligible Shareholders. In the petition of 20 May 2016 Petitioners explained that the amount of EUR 1,203,700,000, that was made available under the Original Settlement Agreement, already is the highest settlement amount that has ever

been offered in the Dutch history of WCAM settlements and also is very high from an international perspective. That amount has now been increased even further.

3.3 The compensation per share is equal and reasonable for all Eligible Shareholders

27. The Court of Appeal has considered that there is an objection to the fact that with respect to the level of the compensation per Fortis Share to be obtained and the cap on the total compensation per group of entitled parties, a distinction is made between two categories of shareholders, Active Claimants and Non-Active Claimants, who have suffered exactly the same alleged damage, while there is, in the opinion of the Court of Appeal, no adequate justification for the distinction made.⁷ In this context the Court of Appeal found that the settlement laid down in the Original Settlement Agreement for the compensations per Fortis Share *"is, in that regard, not reasonable and, because of the inherent subordination of the Non-Active Claimants that is linked to it, bars the binding declaration sought."*⁸
28. Following these findings of the Court of Appeal the distinction between Active Claimants and Non-Active Claimants has been dropped with regard to the compensation per share of the alleged damage suffered in the Relevant Periods. Under the Amended and Restated Settlement Agreement all Eligible Shareholders are entitled to the same basic compensation for each Fortis Share, whereby a distinction is made only between Buyer Shares, Holder Shares and three Relevant Periods in which the shares were purchased or held. From the perspective of those previously called the Non-Active Buyers, the amounts have also been significantly increased.
29. The table below shows the amount per share to which Eligible Shareholders may lay claim under the Amended and Restated Settlement Agreement (in the far right column). By way of comparison, the 'old' amounts set out in the Original Settlement Agreement are featured in the third and fourth columns.

⁷ Interim judgment of 16 June 2017, paragraph 8.27 and 8.28.

⁸ Interim judgment of 16 June 2017, paragraph 8.27.

Period	Categories of Fortis Shares	Non-Active Claimants	Active Claimants	Amended SA
Period 1	Buyer 1 Share	EUR 0.38	EUR 0.56	<u>EUR 0.47</u>
	Holder 1 Share	EUR 0.19	EUR 0.28	<u>EUR 0.23</u>
Period 2	Buyer 2 Share	EUR 0.85	EUR 1.28	<u>EUR 1.07</u>
	Holder 2 Share	EUR 0.43	EUR 0.64	<u>EUR 0.51</u>
Period 3	Buyer 3 Share	EUR 0.25	EUR 0.38	<u>EUR 0.31</u>
	Holder 3 Share	EUR 0.13	EUR 0.19	<u>EUR 0.15</u>

30. Besides the basic compensation per share to which all Eligible Shareholders are entitled, all Eligible Shareholders may claim entitlement to the Compensation Add-On (see no. 12 above). The maximum thereof has been raised from EUR 200 (for claimants who were qualified as 'Non-Active Claimants' in the Original Settlement Agreement) and EUR 400 (for claimants who were qualified as 'Active Claimants' in the Original Settlement Agreement) to EUR 950 for all Eligible Shareholders. In addition, the supplementary compensation which the Active Claimants received under the Original Settlement Agreement for each Fortis Share purchased or held (paragraph 3.3 'old' of the Settlement Distribution Plan) has been dropped. In this context as well, therefore, no distinction is made any more between Active Claimants and other Eligible Shareholders.
31. In their application of 20 May 2016 Petitioners extensively set out that the compensations per share offered under the Original Settlement Agreement were, in their opinion, more than reasonable, also in proportion to, on the one hand, the calculated potential price inflation⁹ and, on the other hand, the uncertainty regarding the question whether Eligible Shareholders would legally be entitled to a compensation and,

⁹ Price inflation is a method with reference to which investor loss can be approximated, as defined in the Analysis Group report. The representative organisations wish it to be noted that there are alternative methods such as the relative loss method and the absolute loss method.

if so, how high that compensation could be.¹⁰ This conclusion of Petitioners was carefully substantiated in detail with a report of Analysis Group.¹¹ The compensations per share that are now being offered under the Amended and Restated Settlement Agreement have been brought into balance for all Eligible Shareholders and have been substantially *increased* compared to the amounts that were awarded to Non-Active Buyers under the previous settlement. Petitioners are therefore convinced that these compensations are yet again more than reasonable. The report of Analysis Group supports this conclusion.¹²

3.4 The Cost Addition is objectively justified

32. The Court of Appeal has considered that a distinction in compensation between entitled parties who have suffered exactly the same (alleged) damage can only be made if an objective justification for this can be found. According to the Court of Appeal, "*the distinction made by Petitioners in the Settlement Agreement between Active Claimants and Non-Active Claimants was insufficient for that*". In addition to this the Court of Appeal considered that it however is perfectly possible that because of their active role Active Claimants have incurred greater costs than Non-Active Claimants and that for this reason it might be reasonable that they receive a compensation for this. In this context the Court of Appeal informed Petitioners that if such compensation were to be awarded this, in principle, would have to be motivated by relating the compensation to specific damage or costs incurred.¹³
33. Petitioners have paid due regard to these considerations of the Court of Appeal. As explained above, the distinction between active and non-active claimants has been dropped where it concerns the compensation of the damage as may be reasonably assumed. The only difference that now still exists between active and non-active claimants is that besides the compensation for damage, which is the same for both categories, an allowance has been made in the so-

¹⁰ Petition of 20 May 2016, paragraph 8.3.

¹¹ Report by Analysis Group of 20 May 2016 (Annex 10 to the petition of 20 May 2016).

¹² Report by Analysis Group of 12 December 2017, par. 4.3.

¹³ Interim judgment of 16 June 2017, paragraph 10.9.

called Cost Addition. This finds its objective justification in the costs, efforts and time which active claimants did incur and which the non-active claimants did not. The Cost Addition is a compensation for Active Claimants in the form of a one-off amount. The starting point in determining the Cost Addition has been that a significant number of Active Claimants has joined a collective representative organisation and, when a settlement has been reached, must pay a portion of the compensation to be received to that organisation as a fee. In that context a 20 per cent fee falls well within the bandwidth used in the market. Taking this into account, there is no justification for Active Claimants ending up in a less favourable position than non-active claimants. Where persons have pursued litigation themselves then there is, of course, no amount owed to the organisation, but also the costs incurred in those cases may easily be of the aforementioned order of magnitude. Because, given the scale and the nature of this settlement, it is impossible to determine for each individual case what the costs incurred precisely were, it is necessary to adopt a more general rule. As the above-mentioned 20 per cent figure has been examined and recognised in WCAM case law the Cost Addition has been adjusted to that percentage. In order to compensate this 20 per cent charge, the Cost Addition must amount to 25 per cent. This can be explained with a simple example. If one wishes to provide a claimant with a net amount of EUR 100 in compensation (the same amount as every other claimant) and 20 per cent is assumed in charges, the gross amount to be received from Ageas (on which the 20 per cent is calculated) must be increased by 25 per cent. After all, the claimant then has to pay 20 per cent of EUR 125 (EUR 25) to the organisation, after which he is left with EUR 100. In addition, it remains the case that thanks to efforts of the Active Claimants and the costs incurred in that context very substantial value has been created for the non-active claimants that finds its translation in the present Amended and Restated Settlement Agreement.

34. A total of EUR 152 million has been budgeted for the Cost Addition. This is equal to about 11.6 per cent of the Settlement Amount. In light of this percentage Petitioners are of the view that the level of the Cost Addition that is offered under the Amended and Restated Settlement Agreement is in every way reasonable. If this is compared with

amounts that can be attributed in this way to costs in other settlements then this percentage is certainly not higher than the average. For an overview of these matters reference is made to the findings of Analysis Group as laid down in the report attached to this submission (Annex 30).¹⁴

35. If the level of the Cost Addition is compared with that of precedents worldwide, including specifically settlements in Europe and the United States, the Cost Addition in this case is shown to be comparable. There are two aspects involved:
- The 20 per cent fee that claimants have to pay their organisation that was used for determining the Cost Addition amply falls within the bandwidth of what is customary in market.
 - The percentage that the Cost Addition comprises of the total Settlement Amount (11.6 per cent) is in line with the average in major settlements (between USD 175.5 million and 6 billion) where the average compensation for costs compared to the total settlement amount comes to some 12 to 14 per cent.¹⁵ This is even more true if European surveys of financing fees paid to so-called Third Party Litigation Funders are taken into account, which show that percentages of between 20 and 60 per cent are customary and in line with the market.¹⁶
36. The Cost Addition is also shown to be reasonable when compared to Dutch precedents. In *Converium* the Court of Appeal held that a percentage of 20 per cent was reasonable. This concerned a success fee of USD 11,680,000 set against a total settlement amount of USD 58,400,000.¹⁷ In *Shell* the compensation for costs was 14 per cent. This concerned a compensation for representative organisations of USD 49,250,000 set against a settlement amount totalling USD 352,600,000.

¹⁴ Report by Analysis Group of 12 December 2017, Section 5.

¹⁵ Report by Analysis Group of 12 December 2017 (Annex 30), no. 43.

¹⁶ Report by Analysis Group of 12 December 2017 (Annex 30), paragraph 5.2.2.

¹⁷ Amsterdam Court of Appeal 17 January 2012, (*Converium*), paragraphs 6.5.1. et seq.

37. The amount of EUR 45 million that is made available to the representative organisations representing the Eligible Shareholders (equal to approximately 3.4 per cent of the Settlement Amount) does not detract from the foregoing. If the compensations going to the representative organisations are added to the Cost Addition, this comes to approximately 14.6 per cent of the Settlement Amount. This reasoning does in fact not fully hold as these compensations are the result of negotiations between Ageas and the organisations and are not financed by the Settlement Amount.
38. In addition to the above, neither the Cost Addition nor the compensation going to the representative organisations detract from the reasonableness of the compensation going to the Eligible Shareholders. As the analysis by Analysis Group shows, this compensation is reasonable.¹⁸

3.5 Speed of the distribution process and accelerated payment of 70 per cent of the compensation

39. Under the Original Settlement Agreement the Eligible Shareholders were to receive a compensation within a relatively short time, that is, after expiry of the opt-out period. Under the Amended and Restated Settlement Agreement the compensations for Eligible Shareholders will be distributed even faster and also here, in terms of the level and the speed of payment, no distinction is made any more between different claimants. As explained in 16 - 17 above, Eligible Shareholders will receive 70 per cent of the compensation for which they qualify within the shortest possible term after the Amended and Restated Settlement Agreement has been declared binding. Subsequently, after the Claims Administrator has taken a final decision on the total amount claimed, the remainder of the compensations will be distributed to all Eligible Shareholders as quickly as reasonably possible (see no. 18).

¹⁸ Report by Analysis Group of 12 December 2017, Section 4.

3.6 Shares issued under the rights issue of September 2007

40. Lastly, for sake of clarification, a few comments concerning the compensation to be paid to those who subscribed for shares in October 2007 on the basis of the rights issue that was put into motion at that time.
41. In the interim judgment of 16 June 2017 the Court of Appeal seems to assume that the acquirers of these shares would not be entitled to compensation. In paragraph 8.9 the Court of Appeal *"for the time being"* assumed that *"(...) damage may also have been sustained in connection with the shares that were obtained on the occasion of the September 2007 rights issue."* The Court of Appeal noted in this context that *"according to Analysis Group no damage has been suffered by shareholders who have exercised their rights under the rights issue, because the exercise price was lower than the corrected share price it had calculated"*.¹⁹ However, it has been the case throughout, both in the Original Settlement Agreement and in the Amended and Restated Settlement Agreement, that also those who have acquired shares by exercising issue rights obtain a compensation as Buyer! Hence, irrespective of the further debate on this topic, this does not affect the reasonableness of the compensations offered under the Amended and Restated Settlement Agreement.²⁰

3.7 Conclusion: The compensation offered under the Amended and Restated Settlement Agreement to Eligible Shareholders is reasonable

42. The foregoing leads to the conclusion that the basic compensation per share is the same for everybody and is moreover reasonable, the dilution risk for this compensation also is the same for everybody, there is additional protection for Buyers against dilution caused by an unexpectedly high turnout on the part of Holders, Eligible

¹⁹ Interim judgment of 16 June 2017, paragraph 7.22 and 10.10.

²⁰ Petitioners refer in this context to the Analysis Group report of 12 December 2017 in which this is explained in detailed fashion (see [Annex 30](#), no. 8 and Appendix C). Additionally, see the report by the Analysis Group of 20 May 2016 (Annex 10 to the petition of 20 May 2016), no. 56 and 61 and the report by Analysis Group of 24 February 2017 (Annex 15 to the submission of additional annexes with accompanying explanation dated 24 February 2017), no. 14 and 54 through 56.

Shareholders are equally entitled to the Compensation Add-On and to the accelerated distribution mechanism, the total compensation has been increased by over EUR 100 million, the compensations to Eligible Shareholders have been brought into balance and the Cost Addition is objectively justified.

43. On the basis of the foregoing Petitioners are convinced that this is a settlement that should be found to be reasonable.

4 MATERIAL REPRESENTATIVENESS

44. The Court of Appeal considered that, in light of the distinction made in the Original Settlement Agreement between Active Claimants and Non-Active Claimants, the interests for the benefit of whom the agreement is concluded were not, also taken into account the compensations proposed to be made to the representative organisations, sufficiently safeguarded in the material sense.²¹ The Court of Appeal held further that doubts had arisen as to the degree to which the interests of the Non-Active Claimants have been taken into account in the final negotiated result.²²

45. Petitioners are of the view that these objections of the Court of Appeal have been accommodated with the amendments discussed in chapters 2 and 3 above. The basic compensation is equal for everybody and is reasonable, the dilution risk for this compensation is also equal for everybody, there is additional protection for Buyers against dilution caused by an unexpectedly high turn-out of Holders, and Eligible Shareholders are equally entitled to the Compensation Add-On and the accelerated distribution mechanism. If one adds to this the fact that the total compensation has been increased by over EUR 100 million, the compensation for Active Claimants for the alleged damage has been lowered (and considerably increased for those who were formerly called Non-Active Claimants) and the one-off amount of the Cost Addition has an objective justification, it may then be concluded that the representative organisations are materially

²¹ Interim judgment of 16 June 2017, paragraph 11.3. Also see paragraph 8.14

²² Interim judgment of 16 June 2017, paragraph 8.49.

representative. This is also underscored by the fact that Consumentenclaim is also supporting the settlement (see **Annex 31**).

5 OTHER MATTERS

5.1 Payments via an own organisation

46. During the oral hearing on 24 March 2017 the Court of Appeal and Petitioners discussed that if payments were to be made via the representative organisations, this should not be processed through the bank accounts of those organisations. The Petitioners concerned will make use of an independent third-party supervising the matter so as to secure their members' interests when processing the payments. In addition a third-party account or notarial client account will be used. In this context the Court of Appeal held that it would be desirable to amend article 7.3 of the Settlement Distribution Plan such that this method be stipulated as a condition for applying this provision.²³

47. Petitioners have adjusted the payment mechanism in paragraph 8.3 of the Settlement Distribution Plan such that Ageas will transfer the payments to the bank account of an independent third-party. It is further laid down that the payments made from the bank account of this independent third-party must be performed under the supervision of an independent third-party (for example, a lawyer, accountant or civil-law notary). Petitioners are of the view that this modification ensures that the processing will be performed in the way as was explained by Petitioners at the oral hearing and that this accordingly meets the Court of Appeal's considerations on this point.

5.2 Release Provision

48. The Court of Appeal considered that the wording of "*including but not limited to*" in the definition of "Events" in principle expanded without limit the scope of this definition to everything that happened in 2007 and 2008.²⁴ The Court of Appeal found this to be objectionable. According to the Court of Appeal, release may only be demanded for

²³ Interim judgment of 16 June 2017, paragraph 9.3.

²⁴ Interim judgment of 16 June 2017, paragraph 9.8.

damages caused by the events as set out in the agreement in so many words.

49. As discussed in paragraph 22 of this submission Petitioners have included in the Amended and Restated Settlement Agreement a more specific description of the events to which the settlement pertains. This means that the release provision now specifically identifies the events to which the settlement, and the concomitant release, pertain. These events correspond to the objections that were raised in the underlying actions, as the trial file which Petitioners submitted on 20 October 2016 shows.
50. By means of this amendment the definition of "Events" has been restricted. This restricted definition is also to be found in the release provision in the Claim Form, which claimants must complete in order to be able to obtain a compensation founded on the Amended and Restated Settlement Agreement. Petitioners are therefore of the view that this amendment does away with the objection expressed by the Court of Appeal in respect of the scope of the release provision.

6 CONCLUSION AND PETITION

51. In response to the interim judgment of the Court of Appeal of 16 June 2017 and the objections formulated therein by the Court of Appeal against the Original Settlement Agreement (and its binding declaration), Petitioners have renegotiated an amended settlement agreement. That has resulted in the present Amended and Restated Settlement Agreement. In the previous chapters of this submission Petitioners have explained that the Amended and Restated Settlement Agreement accommodates the objections of the Court of Appeal and that there are considerable improvements with respect to the Original Settlement Agreement. Petitioners believe that the Amended and Restated Settlement Agreement offers, without qualification, a reasonable compensation to more than 150,000 potential beneficiaries.
52. Accordingly, Petitioners request the Court of Appeal to declare the Amended and Restated Settlement Agreement and its accompanying annexes, including the Settlement Distribution Plan, binding for all

Eligible Shareholders (and any of their legal successors as meant in article 7:907(1) DCC).

Amsterdam, 12 December 2017

Counsel for Ageas
On behalf of Petitioners

LIST OF ANNEXES

Bijlage 29	Amended and Restated Settlement Agreement
Bijlage 30	Report by Analysis Group of 12 December 2017
Bijlage 31	Press release Ageas – Akkoord bereikt over aangepaste Fortisschikking [agreement reached on amended Fortis settlement], 12 December 2017

ANNEX 29

Amended and Restated Settlement Agreement

Within the meaning of Article 7:907 of the Dutch Civil Code

between

ageas SA/NV

and

Vereniging van Effectenbezitters

and

DRS Belgium CVBA

and

Stichting Investor Claims Against FORTIS

and

Stichting FortisEffect

and

Stichting FORsettlement

Dated 12 December 2017

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Settlement Agreement

THIS AGREEMENT IS DATED 12 DECEMBER 2017 AND MADE BETWEEN:

- (1) ageas SA/NV, a company with limited liability incorporated under the laws of Belgium, with seat in Brussels, Belgium, and registered with the Crossroads Bank for Enterprises under number 0451.406.524 ("**Ageas**");
- (2) Vereniging van Effectenbezitters, an association incorporated under the laws of the Netherlands, with seat in The Hague, the Netherlands, and with trade register number 40408053 ("**VEB**");
- (3) DRS Belgium CVBA, a cooperative company with limited liability, incorporated under the laws of Belgium, with seat in Brussels, Belgium, and registered with the Crossroads Bank for Enterprises under number 0452.511.928 ("**Deminor**");
- (4) Stichting Investor Claims Against FORTIS, a foundation incorporated under the laws of the Netherlands, with seat in Amsterdam, the Netherlands, and trade register number 50975625 ("**SICAF**");
- (5) Stichting FortisEffect, a foundation incorporated under the laws of the Netherlands, with seat in Utrecht, the Netherlands, and trade register number 30249138 ("**FortisEffect**"); and
- (6) Stichting FORsettlement, a foundation incorporated under the laws of the Netherlands, with seat in Amsterdam, the Netherlands, and trade register number 65740599 (the "**Foundation**");

all parties mentioned under (1)-(6) above together the "**Parties**", and each of them individually a "**Party**"; Parties (2), (3), (4) and (5) are both individually and jointly referred to as "**ACG**".

BACKGROUND:

- (A) Fortis N.V. (a company incorporated under Dutch law – after 30 April 2010 named ageas N.V.) and Fortis SA/NV (a company incorporated under Belgian law – after 30 April 2010 named ageas SA/NV) merged on 7 August 2012. ageas SA/NV (the Belgian holding) was the acquiring party. In relation to the events before 30 April 2010, Ageas will be referred to as "**Fortis**".
- (B) In 2007 and 2008, the former group of Fortis conducted both banking and insurance activities. The shares of Fortis were listed on Euronext Amsterdam, Euronext Brussels and the Luxembourg Stock Exchange.

- (C) In 2007 and 2008, certain events (the "**Events**") took place relating to Fortis' policy and/or Fortis' communication or alleged lack thereof in relation to:
- (i) its subprime portfolio, including the exposure, valuation and impairments;
 - (ii) the (information contained in the) trading update and prospectus of 21 and 25 September 2007 respectively and the rights issue in 2007;
 - (iii) the public offer and takeover of ABN AMRO, including its preparation, financing and integration, and including the decision whether or not to trigger the so-called MAC-clause and Fortis' related financial policy;
 - (iv) its financial position and financial policy, including its solvency position (including the so-called "look through solvency"), liquidity position, financial statements, forecasts and provisions, its assessment of the crisis as well as its dividend policy;
 - (v) Fortis' issuance of new shares in June 2008;
 - (vi) its communication with its regulators or lack thereof;
 - (vii) the remedies required by the European Commission;
 - (viii) the divestments in 2007 and 2008, including the intended divestment of its investment management business to Ping An and the intended transaction with Vinci regarding Interparking;
 - (ix) all operations regarding Scaldis;
 - (x) the riskier nature of Fortis' shares in 2007 and 2008;
 - (xi) the break-up of Fortis and the events leading up to it, including the preparation, negotiation, management, documents, decisions, agreements, board meetings, purchase prices, and including write-downs and the divestments and disposals of assets and shares including the transactions with the Dutch and Belgian States and BNP Paribas and approvals regarding such events, as well as the ensuing implementation of the break-up in 2009; and
 - (xii) the provision of loans, including financial assistance, for the acquisition of Fortis' shares.
- (D) The Events have led to allegations that Fortis has violated, among other Belgian or Dutch (financial) laws and regulations, the Dutch Financial Services Act (*Wet op het financieel toezicht*), and acted tortiously with respect to investors in Fortis

during the years 2007 and 2008, including in the periods (i) 21 September up to and including 7 November 2007, (ii) 13 May 2008 up to and including 25 June 2008, and (iii) 29 September 2008 up to and including 3 October 2008, resulting in civil claims and legal proceedings in the Netherlands and Belgium, among others initiated by VEB, SICAF and FortisEffect (all in the Netherlands), and by Deminor and a group of investors advised and coordinated by Deminor (in Belgium).

- (E) VEB represents, by virtue of its articles of association, the interests of securities holders in general, including the interests of persons who held Fortis Shares (as defined in Paragraph 1 of Schedule 1 (*Definitions and interpretation*)) in the period between 21 September 2007 and 3 October 2008. SICAF represents, by virtue of its articles of association, the interests of persons who held Fortis Shares in the period between 29 May 2007 and 14 October 2008 and who suffered damages, including but not limited to 155 co-plaintiffs in the so-called SICAF-II proceedings. Deminor represents and advises approximately 5900 Eligible Shareholders (as defined in Recital (H)) with the vast majority of them acting as named plaintiffs in court proceedings in Belgium. FortisEffect represents, by virtue of its articles of association, the interests of investors in Fortis with either direct or indirect interests.
- (F) The Parties have been exploring opportunities to resolve the disputes and claims relating to the Events and in relation thereto have submitted such disputes to mediation by Messrs Stephen Greenberg and Yves Herinckx (the "**Mediators**") pursuant to a mediation agreement dated 8 October 2015.
- (G) The Settlement Amount (as defined in Clause 4.1.1) will be funded by Ageas and by the proceeds from certain insurance policies for the benefit of its (former) directors and officers. The Settlement Amount less such insurance proceeds will be paid by Ageas in order to settle all claims and to be released of any potential liability towards Eligible Shareholders in connection with the Events (if any).
- (H) Without admitting that it would have been or is engaged in any wrongdoing, that any laws, rules or regulations would have been violated or that any person who held any Fortis Shares in 2007 or 2008 would have suffered any compensable damage, Ageas desires to settle all claims which any person who held Fortis Shares at any time between 28 February 2007 c.o.b. and 14 October 2008 c.o.b (such person an "**Eligible Shareholder**") has had, now has or may in future have against the Releasees (as defined in Clause 5.1.1), in connection with the Events.
- (I) The Parties have considered what a fair compensation in connection with the Events would be for different classes of Eligible Shareholders, depending inter alia on (i) the period in which Eligible Shareholders held Fortis Shares, (ii) whether such Eligible Shareholders held or bought Fortis Shares, and (iii)

whether such Eligible Shareholders have incurred and/or agreed to incur costs in whatever form or manner, in pursuing their alleged claim and realising the settlement. The Parties now wish Ageas to compensate Eligible Shareholders, on the terms and subject to the conditions of this agreement.

- (J) While it is impossible to know precisely how many persons qualify as Eligible Shareholder, the Parties estimate that in each of the three periods described in Clause 3.1 (*Classes of Fortis Shares*) there are roughly 150,000 to 220,000 Eligible Shareholders.
- (K) On 14 March 2016, the Parties have concluded the first version of this agreement, which was amended on 19 May 2016 (that amended agreement the "**Prior Settlement Agreement**"). On 20 May 2016, the Parties submitted a joint petition, as referred to in Article 7:907(1) DCC, (the "**Petition**") to the Amsterdam Court of Appeal (the "**Court**"), with the purpose of having the Prior Settlement Agreement, and the settlement contained therein, declared binding on all Eligible Shareholders.
- (L) The Court has organized a procedural hearing on 25 August 2016, after which the Parties have notified the Eligible Shareholders in accordance with Article 1013 DCCP. On 24 March 2017, the Court held an oral hearing in order to assess the Prior Settlement Agreement, during which certain potential Eligible Shareholders put up defences against the Prior Settlement Agreement.
- (M) The Court issued an interim judgment on 16 June 2017 in which it concluded that the amended agreement would not be declared binding in its form at that time for the reasons as set out in the interim judgment, and gave the Parties the opportunity to amend the Prior Settlement Agreement.
- (N) The Parties have reflected on the Court's considerations and entered into discussions among each other, which have led to a second amended settlement contained in this agreement, which the Parties believe addresses all material objections and concerns expressed by the Court in its interim judgment to the degree possible.
- (O) The Parties now wish to have this agreement, and the settlement contained therein, declared binding on all Eligible Shareholders, including but not limited to such shareholders in the Netherlands and Belgium, to the maximum extent possible, including the maximum geographical extent.

THE PARTIES AGREE AS FOLLOWS

1 DEFINITIONS AND INTERPRETATION

In this agreement, unless the context otherwise requires, the definitions and provisions of Schedule 1 (*Definitions and interpretation*) apply throughout.

2 REPRESENTATIONS

2.1.1 The Parties represent that:

- (a) they are fully authorised and have all required internal and external (e.g. National Bank of Belgium) approvals necessary to enter into and execute this agreement;
- (b) any representations they make in this agreement are true and accurate.

3 CLASSES OF FORTIS SHARES

3.1 Classes of Fortis Shares

For the purpose of this agreement, the Fortis Shares are divided into the following subclasses:

- (a) the number of Buyer 1 Shares is, in respect of an Eligible Shareholder, the number of Fortis Shares held by that Eligible Shareholder on 7 November 2007 c.o.b. minus the number of Fortis Shares held by that Eligible Shareholder on 21 September 2007 o.o.b. in as far as the difference is greater than zero (such Fortis Shares are referred to as the "**Buyer 1 Shares**" of that Eligible Shareholder);
- (b) the number of Holder 1 Shares is, in respect of an Eligible Shareholder, the lower of the number of Fortis Shares held by that Eligible Shareholder on 7 November 2007 c.o.b. or 21 September 2007 o.o.b. (such Fortis Shares are referred to as the "**Holder 1 Shares**" of that Eligible Shareholder; and together with the Buyer 1 Shares the "**Period 1 Shares**");
- (c) the number of Buyer 2 Shares is, in respect of an Eligible Shareholder, the number of Fortis Shares held by that Eligible Shareholder on 25 June 2008 c.o.b. minus the number of Fortis Shares held on 13 May 2008 o.o.b. by that Eligible Shareholder in as far as the difference is greater than zero (such Fortis Shares are referred to as the "**Buyer 2 Shares**" of that Eligible Shareholder);

- (d) the number of Holder 2 Shares is, in respect of an Eligible Shareholder, the lower of the number of Fortis Shares held by that Eligible Shareholder on 25 June 2008 c.o.b. or 13 May 2008 o.o.b. (such Fortis Shares are referred to as the "**Holder 2 Shares**" of that Eligible Shareholder; and together with the Buyer 2 Shares the "**Period 2 Shares**");
- (e) the number of Buyer 3 Shares is, in respect of an Eligible Shareholder, the number of Fortis Shares held by that Eligible Shareholder on 3 October 2008 c.o.b. minus the number of Fortis Shares held by that Eligible Shareholder on 29 September 2008 o.o.b. in as far as the difference is greater than zero (such Fortis Shares are referred to as the "**Buyer 3 Shares**" of that Eligible Shareholder);
- (f) the number of Holder 3 Shares is, in respect of an Eligible Shareholder, the lower of the number of Fortis Shares held by that Eligible Shareholder on 3 October 2008 c.o.b. or 29 September 2008 o.o.b. (such Fortis Shares are referred to as the "**Holder 3 Shares**" of that Eligible Shareholder; and together with the Buyer 3 Shares the "**Period 3 Shares**").

4 SETTLEMENT; PROCEDURE FOR OBTAINING COMPENSATION

4.1 Settlement

4.1.1 The "**Settlement Amount**" is the sum of the Compensation Cap and the Cost Addition Cap (both as defined in Schedule 1 (*Definitions and interpretation*)), excluding, for the avoidance of doubt, all costs and expenses related to the execution, approval and implementation of this agreement, such as but not limited to the costs described in Clause 4.2.3, and the costs of the Parties as described in Clause 9.9.

4.1.2 Ageas shall procure that the Settlement Amount will be distributed pursuant to the Settlement Distribution Plan set out in Schedule 2 (*Settlement Distribution Plan*), and in accordance with Clause 4.3.

4.2 Foundation and Claims Administrator

4.2.1 The Foundation has been established to supervise, monitor and administer the distribution of the Settlement Amount, in accordance with its articles of association.

4.2.2 The Foundation has selected a Claims Administrator with experience and international capacities as claims administrator, following a thorough selection process, whereby important criteria in selecting the Claims Administrator were experience, high quality and high reputation both with handling claims from retail

and institutional investors in Europe, and which takes into account prior experience with multi-jurisdiction mass claim settlement in Europe.

- 4.2.3 The costs and expenses of the Foundation and the Claims Administrator, including inter alia all costs relating to the (setting up of the) claims administration process, including all WCAM notifications, the distribution of the Settlement Amount, and proper D&O insurance for Foundation board members, shall be for the account of Ageas. Any interest accrued on amounts paid by Ageas to the Foundation shall be for the benefit of Ageas.
- 4.2.4 The Foundation shall be dissolved as soon as possible after full distribution of the Settlement Amount in accordance with this agreement, after which any remaining monies of the Foundation shall be repaid to Ageas.

4.3 Procedure for obtaining distribution from the Settlement Amount

- 4.3.1 To receive a distribution from the Settlement Amount, an Eligible Shareholder must complete and submit a proof of claim and release form as approved by the Parties as set out in Clause 4.3.2, and ultimately the Court (the "**Claim Form**").
- 4.3.2 Ageas shall, together with the Claims Administrator, prepare a draft Claim Form. Ageas shall provide the other Parties with a reasonable opportunity to comment on such draft and include any reasonable comments in such draft, which is subject to the approval of all Parties.
- 4.3.3 The Claim Form will require each Eligible Shareholder to do the following:
- (a) provide (i) the number of Fortis Shares held on each of the dates set out in Clause 3.1(a) through (f), and (ii) the highest number of Fortis Shares held on any other moment between 28 February 2007 c.o.b. through 14 October 2008 c.o.b. or, by default, the highest number of Fortis Shares held on either dates set out in Clause 3.1(a) through (f);
 - (b) provide reliable evidence as accepted under the Claims Administrator's standard practice in class action claims administration, including but not limited to broker confirmation slips or monthly brokerage statements or custodian bank statements confirming the particulars of the information provided under Clause 4.3.3(a);
 - (c) indicate whether or not such Eligible Shareholder qualifies as an Active Claimant, and if so, provide evidence to that effect;
 - (d) if such Eligible Shareholder qualifies as a Constituent and wishes or has already agreed to receive compensation through an ACG, as the case may be, (i) irrevocably and explicitly consent to Ageas paying such

amount through the relevant ACG in accordance with Paragraph 8.3 of Schedule 2 (Settlement Distribution Plan), (ii) agree that such payment by Ageas to the relevant ACG fully and finally discharges any payment obligation of Ageas to such Constituent (*bevrijdend betalen*) pursuant to this agreement; and (iii) in case of an ACG, fully and finally discharges the relevant ACG for its role in negotiating and implementing the settlement contemplated by this agreement, and the terms thereof;

- (e) agree to the terms of the Release, which is part of the Claim Form;
- (f) where a Claim Form is submitted by an Eligible Shareholder who is a party to Belgian legal proceedings in relation to the Events, an explicit instruction from such Eligible Shareholder to its lawyers, and accepted by such lawyers, to file a *désistement d'action/afstand van rechtsvordering*, without prejudice to its right to receive its compensation under and in accordance with the terms of this agreement;
- (g) agree to be subject to inquiry by the Claims Administrator and the Dispute Committee with respect to the eligibility, including where relevant as an Active Claimant, validity and/or amount of the claim for compensation made in the Claim Form;
- (h) consent to the exclusive jurisdiction of the Claims Administrator and the Dispute Committee, in respect of the matters set out in Clauses 4.3.4 through 4.3.8 by way of binding advice (*bindend advies*), and to the exclusive jurisdiction of the Amsterdam District Court, and its appellate courts, with respect to any other dispute such Eligible Shareholder may have, or claim to have, with Ageas, the other Parties or any of the Releasees with respect to this agreement, to the extent dispute resolution is not provided in any agreements between the relevant Eligible Shareholder and a Party or Releasee as set out in Clause 10.4;
- (i) represent and warrant that the statements made in the Claim Form are complete, true and accurate; and
- (j) deliver a copy of the executed and completed Claim Form to the Claims Administrator at the address shown in the Binding Declaration Notice (as defined in Clause 6.2.1) within 366 days after the Binding Declaration Notice Date.

4.3.4 The validity of each claim made on a Claim Form and the amount allocated to each Eligible Shareholder who complies with the requirements for compensation of this agreement, will be initially determined by the Claims Administrator, acting as independent reviewer within the meaning of Article 7:907(3)(d) DCC, in

accordance with the terms of this agreement and the Settlement Distribution Plan.

- 4.3.5 The Claims Administrator shall promptly, but at least within a period after receipt of a Claim Form to be agreed between the Foundation and the Claims Administrator, which period shall be as short as practicably possible, advise the Eligible Shareholder in writing if it accepts or rejects a claim and whether such Eligible Shareholder qualifies as Active Claimant (if applicable), including a period for Eligible Shareholders to cure deficiencies, and what amount will provisionally be allocated to such Eligible Shareholder by applying 100% of the amounts for the compensation per Fortis Share set out in Paragraph 2 (a) through (f) of this Schedule 2 (Settlement Distribution Plan) for Eligible Shareholders, the Compensation Add-on pursuant to Paragraph 3.1 of Schedule 2 (Settlement Distribution Plan) and, where applicable, the Cost Addition as set out in Paragraph 4 of Schedule 2 (Settlement Distribution Plan), and excluding any possible upward or downward adjustments to such amounts pursuant to Paragraph 5 of Schedule 2 (Settlement Distribution Plan) (the "**Provisional Claim Amount**"). If an Eligible Shareholder disagrees with such a determination and the Claims Administrator and the Eligible Shareholder are unable to resolve the dispute within twenty (20) Business Days after notification of such disagreement to the Claims Administrator, the Eligible Shareholder may submit the dispute to the Dispute Committee for final and binding resolution by way of a binding advice (*bindend advies*) under Dutch Law, which resolution shall be made by the Dispute Committee within twenty (20) Business Days after such dispute has been submitted to it. If the Eligible Shareholder does not submit the dispute to the Dispute Committee within thirty (30) Business Days after the Claims Administrator in writing has rejected objections raised by the Eligible Shareholder against rejecting his claim in whole or in part, then the determination by the Claims Administrator is binding and no further recourse shall exist. The dispute resolution mechanism set out in this Clause 4.3.5 shall apply *mutatis mutandis* to the determination of the Final Claim Amount.
- 4.3.6 If an Eligible Shareholder does not submit a Claim Form by the Exclusion Date, that Eligible Shareholder shall not be entitled to an early distribution pursuant to Paragraph 6 of Schedule 2 (Settlement Distribution Plan).
- 4.3.7 If an Eligible Shareholder does not submit a Claim Form within 366 days from the Binding Declaration Notice Date (the "**Claim Submission Deadline**"), that Eligible Shareholder shall not be entitled to any portion of the Settlement Amount as meant in Article 7:907(6) DCC.
- 4.3.8 If an Eligible Shareholder receives compensation relating to the Events through the judgment of any court, excluding the Court in the WCAM proceedings, such Eligible Shareholder shall not be entitled to any portion of the Settlement Amount.

5 FINALITY

5.1 Full, final and irrevocable discharge and waiver

5.1.1 Subject to this agreement not being terminated and subject to satisfaction of the relevant compensation obligations towards such ACG as agreed between Ageas and such Parties, each ACG hereby fully, finally, and forever releases, under any Law, each of (i) Ageas and the Subsidiaries, (ii) all directors, officers and other personnel of Ageas and the Subsidiaries who work or have in one way or another worked for or have been associated with Ageas or the Subsidiaries, (iii) all Underwriting Banks, and (iv) all auditors, advisers, counsel and insurers of the aforementioned persons and their personnel and officers and directors (all persons under (i) through (iv) each a "**Releasee**") from any and all claims, actions, charges, and damages that such ACG has had, now has or may in the future have against any Releasee in relation to the Events and waives, under any Law, any and all of their rights in connection thereto.

5.1.2 As of the Exclusion Date, each Eligible Shareholder who has not delivered an Opt-Out Notice will be deemed to have, by operation of law as a result of the Binding Declaration, fully, finally, and forever released, under any Law, each Releasee from any and all claims, actions, charges, and damages that such Eligible Shareholder has had, now has or may in the future have against any Releasee in relation to the Events and waived, under any Law, any and all of his rights in connection thereto.

5.1.3 None of the Releasees or Releasees' respective counsel, nor any ACG or their respective counsel, shall have any responsibility for, or liability with respect to the implementation of the Settlement Distribution Plan, the form, substance, method or manner of distribution, the administration or distribution of the Settlement Amount, any tax liability that an Eligible Shareholder may incur as a result of this agreement or as a result of any action taken pursuant to this agreement, or the administration or processing of claims or the determination of the validity of a Claim Form.

5.1.4 For the avoidance of doubt, the release set out in the preceding Clause 5.1.3 does not work to relieve Ageas or any Releasee from the full performance of their respective obligations from and under this agreement.

5.2 Suspension and termination of actions and proceedings

5.2.1 Each ACG shall, and shall procure that their lawyers on behalf of their respective Constituents will, continue to suspend all legal proceedings in relation to the Events in which they are involved against any Releasee, and each ACG shall procure that such legal proceedings shall continue to be suspended.

- 5.2.2 Ageas shall, and it shall instruct its lawyers to and shall procure that all Releasees and their lawyers involved in the legal proceedings referred to in Clause 5.2.1 will, do all within its power to ensure that those legal proceedings resume as before the suspension, should this agreement be terminated.
- 5.2.3 As of the moment of filing of the Petition, all legal proceedings of each ACG, and their respective Constituents against all Releasees have been suspended by operation of law, and must ultimately be terminated in accordance with Article 1015 DCCP on the Opt-Out Termination Date. In as far as Article 1015 DCCP is not directly applicable to such legal proceedings, the ACG shall procure that the relevant actions or proceedings in which it is involved with its Constituents will be suspended and terminated with the same effect as envisaged in Article 1015 DCCP. As far as Belgian legal proceedings in which Deminor and its Constituents are concerned, Deminor will use its best efforts to terminate proceedings in which they are involved by requesting its Constituents to provide explicit instructions to terminate proceedings in accordance with Article 821 BJC, without prejudice to the right of those Constituents to receive their compensation under and in accordance with this agreement.
- 5.2.4 Deminor is not required to procure suspension or termination as set out in this Clause 5.2 (*Suspension and termination of actions and proceedings*) with respect to a Constituent of Deminor whose contract with Deminor is terminated, but only in respect of such Constituent.
- 5.3 No claims or assistance to other claims; refrainment from negative statements**
- 5.3.1 Each ACG shall not, and shall procure that their directors, officers and other executives, their employees, counsel (in as far as this does not violate the applicable Bar Rules), and their advisers who are or have been involved directly in legal proceedings and/or their dealings with or against all Releasees will not, be involved with any (i) action, complaint, media campaign or statement, relating to the Events, in which Releasees are criticised, unless earlier reasoning as stated to the past, and (ii) other claims against the Releasees relating to the Events, either by representing any person or providing information to any person and they declare and warrant that they shall not, and procure that the aforementioned persons will not, benefit in any way, financially or non-financially from such actions.
- 5.3.2 This Clause 5.3 will not apply to a counsel advising and/or representing a Constituent of Deminor whose contract with Deminor is terminated, but only in respect of such Constituent and such counsel.
- 5.3.3 For the avoidance of doubt, Clauses 5.2 and 5.3 do not prevent an ACG from assisting an Eligible Shareholder in submitting Claim Forms in accordance with

Clause 4.3, nor assisting or acting for Eligible Shareholders in or out of court in an action enforcing its rights pursuant to this agreement, whether it is declared binding by the Court or not.

5.4 No admission of wrongdoing, liability and guilt

None of the Releasees admits any wrongdoing or liability in relation to the Events.

5.5 Third-party stipulation

For the avoidance of doubt, this Clause 5 contains an irrevocable third-party stipulation (*onherroepelijk derdenbeding*) in respect of Releasees which are not a Party.

6 SUBMISSION TO COURT FOR BINDING DECLARATION

6.1 Submission

6.1.1 The Parties shall use best efforts to jointly file a submission as referred to in paragraph 11.4 of the Court's interim judgment of 16 June 2017 as soon as possible, but with the firm intention to file ultimately on 12 December 2017, in order to make the settlement contained in this agreement enforceable pursuant to Article 7:907 DCC and through the *Wet Collectieve Afwikkeling Massaschade* to the Court (the "**Submission**"). The Submission will be drafted by Ageas, and Ageas shall provide the other Parties with a reasonable opportunity to comment on such draft and include any reasonable comments in such draft, which is subject to the approval of all Parties.

6.1.2 Each Party shall use best efforts to ensure that this agreement will be declared binding by the Court. If this agreement is declared binding by the Court, no Party may request revocation (*herroeping*) on the basis of Article 1018(2) DCCP.

6.2 Binding Declaration Notice

6.2.1 Ageas will draft the notice within the meaning of Article 1017(3) DCCP (the "**Binding Declaration Notice**"), whereby it shall fully involve the other Parties. Ageas shall provide the other Parties with a reasonable opportunity to comment on such draft and include any reasonable comments in such draft, which is subject to the approval of all Parties. The agreed-upon Binding Declaration Notice, attached hereto as Schedule 3 (*Draft Binding Declaration Notice*), has been submitted to the Court for its review.

6.2.2 The Parties shall endeavour to make sure that the Binding Declaration Notice:

- (a) will meet all applicable requirements of Dutch Law (including Article 1017(3) DCCP), the rules of the Court and any other applicable Law, and will otherwise be in the manner and form ordered by the Court; and
- (b) will be, by the Binding Declaration Notice Date, (i) mailed by regular mail, e-mail or transmitted by such other means as required by the Court, to all persons who can be identified by reasonable efforts as falling within the description of Eligible Shareholders and for which the Parties have a last-known address as well as to well-known custodians, (ii) published in two national newspapers in the Netherlands and Belgium, (iii) published on the websites of the Parties, and in any other way, as required by the Court.

6.3 Expressions of desire not to be bound by Binding Declaration

- 6.3.1 An Eligible Shareholder who desires not to be bound by the Binding Declaration and the Release must deliver to the Claims Administrator a written notice of his intention not to be bound consistent with Clause 6.3.2 (an "**Opt-Out Notice**") before the Exclusion Date. Any Eligible Shareholder who does not timely deliver an Opt-Out Notice to the Claims Administrator shall be bound by the Binding Declaration and the Release.
- 6.3.2 An Opt-Out Notice must include the name, address, telephone number and email address of the Eligible Shareholder who delivers such Opt-Out Notice. The Binding Declaration Notice will request an Eligible Shareholder who delivers an Opt-Out Notice to provide the amount of Fortis Shares held on the dates set out in Clause 4.3.3(a), and, if it is represented by an ACG or another organisation or representative the name of such ACG or other organisation or representative. An Eligible Shareholder who delivers an Opt-Out Notice is deemed to waive his rights as an Eligible Shareholder under this agreement.
- 6.3.3 An Eligible Shareholder who could not have known (even with the exercise of reasonable care) of his alleged damages, within the meaning of Article 7:908(3) DCC, and who desires not to be bound by the Binding Declaration and the Release must deliver to the Claims Administrator an Opt-Out Notice within six (6) months after his damage has become known. Any such Eligible Shareholder who does not timely deliver an Opt-Out Notice to the Claims Administrator shall be bound by the Binding Declaration and the Release.

7 TERMINATION

7.1 Binding Declaration

Each Party will have the right to terminate this agreement at its sole discretion if the Court declines the Binding Declaration consistent with the terms of this

agreement, and either (i) the period to appeal from the Court's ruling has expired without an appeal having been filed, (ii) all Parties waive in writing their appeal rights, or (iii) an appeal is filed and the Court's decision is not reversed or vacated in such a way as to make the settlement binding on all Eligible Shareholders as contemplated by this agreement, in each case within thirty (30) Business Days after the event prompting the termination.

7.2 Opt-out

7.2.1 Ageas has the right to terminate this agreement at its sole discretion within eight (8) weeks after the Exclusion Date if, at the Exclusion Date, the Opt-Out Amount exceeds 5% (five) percent) of the Settlement Amount.

7.2.2 The Opt-Out Amount will be determined in accordance with Schedule 3 (*Determination of Opt-Out Amount*) ultimately within six (6) weeks after the Exclusion Date.

7.2.3 If Ageas decides to terminate this agreement pursuant to Clause 7.2.1, it shall give written notice to the other Parties of such termination, following which they shall give notice of the termination by means of (i) publication in two national newspapers in the Netherlands and Belgium, (ii) publication on the websites of the Parties, and in any such other way as required by the Court.

7.3 Consequences of termination

If this agreement is terminated pursuant to the terms hereof, then this agreement shall have no force or effect, and no Party nor Eligible Shareholder shall be bound by any of its terms, except for the terms set out in Clauses 1, 7.2.3, 8.3 (*Confidentiality undertaking*), 9 (*Miscellaneous*) and 10 (*Governing law and enforcement*), and only in case of termination by Ageas in accordance with Clause 7.2 (*Termination*) also Paragraph 6.2. of Schedule 2 (*Settlement Distribution Plan*) shall remain in full force and effect.

8 ANNOUNCEMENTS; BEST EFFORTS; CONFIDENTIALITY

8.1 Announcements

The ACG shall each fully support the settlement contemplated by this agreement and each of them shall (i) endorse it, (ii) refrain from any negative statement regarding the settlement, and (iii) take affirmative steps to advise their respective Constituents against submitting an Opt-Out Notice.

8.2 Best efforts

The ACG shall each use best efforts to convince their respective Constituents to participate in the settlement contemplated by this agreement. If they have

knowledge that any of their Constituents intends to send or has sent an Opt-Out Notice, they will promptly inform Ageas and the Claims Administrator, providing any relevant details relating thereto they possess.

8.3 Confidentiality undertaking

Each Party shall comply with the existing confidentiality arrangements.

9 MISCELLANEOUS

9.1 Nature of this agreement

This agreement constitutes a settlement agreement within the meaning of Article 7:907 DCC.

9.2 No assignment

No Party may, without the prior written consent of the other Parties, assign, transfer, or encumber (in each case either in its entirety or in part) any of its rights and obligations under this agreement.

9.3 Invalidity

9.3.1 In this Clause 9.3 (*Invalidity*), "**enforceable**" includes legal, valid and binding (and derivative terms are to be construed accordingly).

9.3.2 If any provision in this agreement is held to be or becomes unenforceable (in each case either in its entirety or in part) under any Law:

- (a) that provision will to the extent of its unenforceability be deemed not to form part of this agreement; and
- (b) the Parties shall use reasonable efforts to agree a replacement provision that is enforceable to achieve so far as possible the intended effect of the unenforceable provision.

9.4 Counterparts

This agreement may be entered into in any number of counterparts, all of which taken together will constitute one and the same instrument. The Parties may enter into this agreement by signing any such counterpart.

9.5 Amendments and waivers

This agreement may not be amended, supplemented or waived (in each case either in its entirety or in part) except by a written agreement between the Parties.

9.6 Third-party rights

Except where this agreement expressly provides otherwise:

- (a) it contains no stipulations for the benefit of a third party (*derdenbedingen*) which may be invoked by a third party against a Party; and
- (b) where this agreement contains a stipulation for the benefit of a third party, this agreement (including the relevant third party's rights under this agreement) may be terminated, amended, supplemented or waived (in each case either in its entirety or in part) without that third party's consent.

For the avoidance of doubt, (i) this agreement confers no rights on third parties unless the Binding Declaration declaring this agreement binding on all Eligible Shareholders is issued, and the Parties are at liberty to amend any term of this agreement until such Binding Declaration without consent of any third party, and (ii) Eligible Shareholders shall not fall under the definition of "Party" as used in this agreement.

9.7 No rescission; no revision; errors;

- 9.7.1 No Party may rescind (*ontbinden*), in whole or in part, this agreement.
- 9.7.2 No Party may request a revision on the basis of Article 6:258 DCC or invoke a revision on the basis of article 6:258 DCC as a defence against a claim for due performance under this agreement.
- 9.7.3 No Party may invoke Article 6:228 DCC, and if a Party has made an error (*heeft gedwaald*) in relation to this agreement, it will bear the risk of that error.

9.8 Suspension

No Party may suspend (*opschorten*) compliance with its obligations under or in connection with this agreement on whatever grounds, except as set out in this agreement or otherwise agreed by the Parties.

9.9 Costs

Unless this agreement provides otherwise, all costs which a Party has incurred or will incur in preparing, concluding or performing this agreement are for its own account.

9.10 Translation

To the extent this agreement is translated into any other language, the English version of this agreement will be authoritative.

9.11 Notices

9.11.1 Any notice by a Party to a Party in connection with this agreement must be:

- (a) in writing;
- (b) in English; and
- (c) delivered by hand, email, registered post or courier.

9.11.2 A notice by a Party to a Party must be sent to such Party at the following addresses, or another person or address as such Party may notify to the other Parties from time to time:

Ageas

Markiesstraat 1
1000 Brussels
Belgium

Email: [REDACTED]

Attention: [REDACTED]

Vereniging van Effectenbezitters – VEB

Amaliastraat 7, 2514 JC The Hague, The Netherlands

Email: [REDACTED]

Attention: [REDACTED]
[REDACTED]

Deminor

Sablon Tower, Rue Joseph Stevens 7, B-1000 Brussels, Belgium

Email: [REDACTED]

Attention: [REDACTED]

SICAF

C/o Jan-Hendrik Crucq, CCL Advocaten B.V., Herengracht 545, (1017 BW)
Amsterdam, The Netherlands

Email: [REDACTED]

Attention: [REDACTED]

FortisEffect

C/o JUST Legal Finance B.V., Maliebaan 70, 3581 CV Utrecht, the Netherlands

Email: [REDACTED]

Attention: [REDACTED]

Foundation

Markiesstraat 1, B-1000, Belgium

Email: [REDACTED]

Attention: [REDACTED]

9.11.3 A notice will be effective upon receipt and will be deemed to have been received:

- (a) at the time of delivery, if delivered by hand, registered post or courier;
- (b) on the day of delivery, if delivered by email prior to 17:00 CET on any Business Day or the next succeeding Business Day if delivered by email after 17:00 CET on any Business Day or on any day other than a Business Day, with proof of the time of delivery being provided by the time of receipt as set out in the e-mail.

10 GOVERNING LAW AND ENFORCEMENT

10.1 Governing law

This agreement (including Clauses 10.2 (*Mediation*) and 10.3 (*Arbitration*)) and any non-contractual obligation arising out of or in connection with it is governed exclusively by Dutch law.

10.2 Mediation

If any dispute between the Parties exclusively arises out of or in connection with this agreement, including disputes concerning the existence and validity, the

Parties shall submit such dispute to the Mediators as mediators. If such dispute has not been resolved, or if the Parties fail to select another mediator in case of unavailability of the above-mentioned mediators, within three (3) months after the dispute has been referred to mediation, Clause 10.3 (*Arbitration*) will apply.

10.3 Arbitration

10.3.1 Subject to Clause 10.2 (*Mediation*), all remaining disputes arising between the Parties exclusively out of or in connection with this agreement, including disputes concerning the existence and validity, will be finally and exclusively resolved by arbitration in accordance with the Arbitration Rules of the Arbitration Institute of the Netherlands (*Arbitragereglement van het Nederlands Arbitrage Instituut*, the "**NAI Arbitration Rules**").

10.3.2 The legal seat of the arbitration (*plaats van arbitrage*) will be Amsterdam, the Netherlands.

10.3.3 The language of the arbitration will be English.

10.3.4 The arbitral tribunal will consist of three arbitrators.

10.3.5 The arbitral tribunal will be appointed in accordance with the NAI Arbitration Rules.

10.3.6 The arbitral tribunal shall decide and make its arbitral award or awards in accordance with the rules of law (*naar de regelen des rechts*).

10.3.7 Neither the Parties nor the arbitration institute may have the arbitral award published.

10.3.8 Arbitral proceedings under this Clause 10.3 (*Arbitration*) will not be consolidated with other arbitral proceedings, whether on the basis of Article 1046 DCCP or otherwise, except for other arbitral proceedings under this Clause 10.3 (*Arbitration*).

10.4 Remaining disputes

10.4.1 Disputes between Eligible Shareholders and (all or) any of the Parties or any of the Releasees with respect to this agreement which do not fall under the jurisdiction of the Dispute Committee shall fall under the exclusive jurisdiction of the Amsterdam District Court, and its appellate courts, including for the purpose of the Petition, except that forum provisions in agreements between an ACG and an Eligible Shareholder will remain unaffected and will therefore have precedence in case of conflict.

[Signature pages follow]

[Signature pages have been removed for privacy reasons]

Schedule 1 Definitions and interpretation

1 Definitions

Capitalised terms, including those used in the introduction and preamble of this agreement, have the following meaning:

"**ACG**" has the meaning set out in the preamble of this agreement;

"**Active Claimant**" means an Eligible Shareholder, except for Excluded Persons, who has taken an affirmative step to make a claim against a Releasee in connection with the Events, by:

- (a) participating in a Dutch or Belgian court action against a Releasee, including by having its name on a complaint, request to voluntarily intervene in pending proceedings (*verzoek tot vrijwillige tussenkomst*) or writ of summons, or intervene in criminal proceedings, such action to be initiated before 24 March 2017; or
- (b) having registered with or joined, before 31 December 2014, a Dutch or Belgian organisation, including the ACG, which has initiated a court action against a Releasee before 24 March 2017, to be proven by a written agreement, registration form or support letter to the Fortis litigation, or in as far as individuals (including pension or management BVs set up for the benefit of a single person) are concerned, by evidence of payment of a membership fee to such organisation, and such Eligible Shareholder is included in the list to be presented by the ACG, to the Claims Administrator. Any Eligible Shareholder presenting itself as a constituent of the ACG without being on a list mentioned in the previous sentence has to provide specific written information to the Claims Administrator evidencing that such Eligible Shareholder qualifies as an Active Claimant as meant in this sub (b). Any dispute in this respect will be decided by the Dispute Committee; or
- (c) a current institutional partner of an ACG, to be proven by evidence of a (former) membership of such ACG at least up to 31 December 2014 and payment of a membership fee to such ACG prior to this date, provided that Ageas must have been notified of such institutional partner prior to 14 March 2016 and the number of such institutional partners is limited to five (5) per ACG;

"**Add-On Cap**" has the meaning set out in Paragraph 5.1.3 of Schedule 2 (*Settlement Distribution Plan*);

"**Ageas**" has the meaning set out in the preamble of this agreement;

"**Binding Declaration**" means an order by the Court declaring this agreement binding within the meaning of Article 7:907 DCC;

"**Binding Declaration Notice**" has the meaning set out in Clause 6.2.1;

"**Binding Declaration Notice Date**" means the date proposed by the Parties to the Court by which the mailing and publication respectively of the Binding Declaration Notice must have occurred as set out in in Clause 6.2.1, which proposed date will be within two (2) months following the date of the Binding Declaration, or as otherwise ordered by the Court, notwithstanding that the Parties aim to, in as far as possible, send Binding Declaration Notices as soon as practicably possible;

"**BJC**" means Belgian Judicial Code;

"**Business Day**" means a day (other than a Saturday or a Sunday) on which banks are open for general business in the Netherlands;

"**Buyer 1 Shares**" has the meaning set out in Clause 3.1 (*Classes of Fortis Shares*)(a);

"**Buyer 2 Shares**" has the meaning set out in Clause 3.1 (*Classes of Fortis Shares*)(c);

"**Buyer 3 Shares**" has the meaning set out in Clause 3.1 (*Classes of Fortis Shares*)(e);

"**Buyer Cap**" has the meaning set out in Paragraph 5.1.1 of Schedule 2 (*Settlement Distribution Plan*);

"**c.o.b.**" means the moment trading closed on the stock exchanges of Amsterdam or Brussels as relevant on the relevant date;

"**Claim Form**" has the meaning set out in Clause 4.3.1;

"**Claim Submission Deadline**" has the meaning set out in Clause 4.3.7;

"**Claims Administrator**" means any person or entity that has been or will be retained by the Foundation pursuant to Clause 4.2.2, with appropriate power of attorney from the Foundation, to assist in implementing the terms of this agreement, including (i) providing announcements and notices to Eligible Shareholders as described in Clause 6.2 (*Binding Declaration Notice*), (ii) responding to inquiries from Eligible Shareholders, (iii) receiving and maintaining any Opt-Out Notices; (iv) receiving, reviewing and maintaining Claim Forms; (v) verifying a person's eligibility as Eligible Shareholder and, where relevant, as

Active Claimant, (vi) setting up, if requested, a program to contact Eligible Shareholders respecting the submissions of Claim Forms, (vii) calculating compensation consistent with the Settlement Distribution Plan, and (viii) distributing amounts in accordance with the Settlement Distribution Plan, such person to be independent within the meaning of Article 7:907(3)(d) DCC;¹

"**Compensation Amount**" has the meaning set out in Paragraph 3.2 of Schedule 2 (*Settlement Distribution Plan*);

"**Compensation Cap**" has the meaning set out in Paragraph 5.1.5 of Schedule 2 (*Settlement Distribution Plan*);

"**Constituents**" means Eligible Shareholders who have registered with or joined an ACG;

"**Cost Addition**" has the meaning set out in Paragraph 4.1 of Schedule 2 (*Settlement Distribution Plan*);

"**Cost Addition Amount**" has the meaning set out in Paragraph 4.2 of Schedule 2 (*Settlement Distribution Plan*);

"**Cost Addition Cap**" has the meaning set out in Paragraph 5.1.6 of Schedule 2 (*Settlement Distribution Plan*);

"**Court**" has the meaning set out in Recital (K);

"**DCC**" means the Dutch Civil Code (*Burgerlijk Wetboek*);

"**DCCP**" means the Dutch Code of Civil Procedure (*Wetboek van Burgerlijke Rechtsvordering*);

"**Deminor**" has the meaning set out in the preamble of this agreement;

"**Dispute Committee**" means a committee consisting of three independent persons, who have been or will be nominated by the Foundation, which has as its purpose to definitively resolve the disputes as set out in Clause 4.3.5 and Paragraph 1.6 of Schedule 2 (*Settlement Distribution Plan*);

"**Early Distribution Amount**" has the meaning set out in Paragraph 6.1 of Schedule 2 (*Settlement Distribution Plan*);

"**Eligible Shareholder**" has the meaning set out in Recital (H);

¹ Currently retained by the Foundation pursuant to Clause 4.2.2 is Computershare Investor Services PLC with address in Bristol, which is affiliated to Computershare Limited, an international organisation with a Dutch branch with registered office in Rotterdam.

"**Events**" has the meaning set out in Recital (C);

"**Excluded Persons**" means any person currently named as a defendant in one or more of the legal proceedings as set out in Recital (D) pending at the moment of execution of this agreement, but, in respect of the Underwriting Banks which are such a defendant, i.e. Merrill Lynch International, BNP Paribas Fortis SA/NV, ING Bank N.V., Coöperatieve Raiffeisen-Boerenleenbank B.A. and Fox-Pitt, Kelton Ltd., only for any Fortis Shares which such Underwriting Bank held at its own risk and expense;

"**Exclusion Date**" means the date determined by the Court by which Eligible Shareholders may ultimately submit an Opt-Out Notice, which the Parties have proposed to the Court to be three (3) months after the Binding Declaration Notice Date;

"**Final Claim Amount**" has the meaning set out in Paragraph 7(a) of Schedule 2 (*Settlement Distribution Plan*);

"**Fortis**" has the meaning set out in Recital (A);

"**Fortis Share**" means a unit issued by Fortis N.V. and Fortis SA/NV, each unit comprised of one ordinary share in the capital of Fortis N.V. twinned with one ordinary share in the capital of Fortis SA/NV, listed at the stock exchange of Amsterdam, Brussels and Luxembourg, including (i) such units purchased or acquired otherwise, provided the economic risk has transferred to the purchaser or the acquirer on such date (the "trade date"), but which have not yet been transferred into the account of the purchaser or acquirer on the trade date, and excluding (ii) such units sold or disposed of otherwise, provided the economic risk has transferred to the person such units are sold to or to whom they have been disposed of otherwise on such date (the "trade date"), but which have not yet been transferred from the account of the seller or otherwise disposing holder of such units;

"**FortisEffect**" has the meaning set out in the preamble of this agreement;

"**Foundation**" has the meaning set out in the preamble of this agreement;

"**Holder 1 Shares**" has the meaning set out in Clause 3.1 (*Classes of Fortis Shares*)(b);

"**Holder 2 Shares**" has the meaning set out in Clause 3.1 (*Classes of Fortis Shares*)(d);

"**Holder 3 Shares**" has the meaning set out in Clause 3.1 (*Classes of Fortis Shares*)(f);

"**Holder Cap**" has the meaning set out in Paragraph 5.1.2 of Schedule 2 (*Settlement Distribution Plan*);

"**Individual**" has the meaning set out in Paragraph 2.3 of Schedule 4 (*Determination of Opt-Out Amount*);

"**Institutional**" has the meaning set out in Paragraph 2.3 of Schedule 4 (*Determination of Opt-Out Amount*);

"**Law**" means any applicable statute, law, ordinance, decree, judgment, order, rule or regulation of any judicial, legislative, executive or regulatory authority to the extent it has jurisdiction in respect of the relevant matter;

"**Mediators**" has the meaning set out in recital (F);

"**NAI Arbitration Rules**" has the meaning set out in Clause 10.3.1;

"**o.o.b.**" means the moment trading opens on the stock exchanges of Amsterdam or Brussels as relevant on a given date;

"**Opt-Out Amount**" means the aggregate amount of compensation to which Eligible Shareholders who have delivered an Opt-Out Notice in accordance with Clause 6.3.1 would have been entitled to pursuant to this agreement if they would not had delivered an Opt-Out Notice, such amount to be determined in accordance with Schedule 4 (*Determination of Opt-Out Amount*);

"**Opt-Out Notice**" has the meaning set out in Clause 6.3.1;

"**Opt-Out Termination Date**" means the last day on which Ageas can exercise its termination set out in Clause 7.2.1 or the date on which Ageas has waived such right, whichever is the earliest;

"**Parties**" or "**Party**" has the meaning set out in the preamble of this agreement;

"**Payment Date**" has the meaning set out in Paragraph 8.2 of Schedule 2 (*Settlement Distribution Plan*);

"**Period 1**" means the period from 21 September 2007 o.o.b. until 7 November 2007 c.o.b.;

"**Period 1 Shares**" has the meaning set out in Clause 3.1 (*Classes of Fortis Shares*)(b);

"**Period 2**" means 13 May 2008 o.o.b. until 25 June 2008 c.o.b.;

"**Period 2 Shares**" has the meaning set out in Clause 3.1 (*Classes of Fortis Shares*)(d);

"**Period 3**" means 29 September 2008 o.o.b. until 3 October 2008 c.o.b.;

"**Period 3 Shares**" has the meaning set out in Clause 3.1 (*Classes of Fortis Shares*)(f);

"**Petition**" has the meaning set out in recital (K);

"**Prior Settlement Agreement**" has the meaning set out in recital (K);

"**Provisional Claim Amount**" has the meaning set out in Clause 4.3.5;

"**Release**" means the releases and waivers set out in Clause 5.1 (*Full, final and irrevocable discharge and waiver*) and the Claim Form;

"**Releasee**" has the meaning set out in Clause 5.1.1;

"**Remaining Distribution Amount**" has the meaning set out in Paragraph 7 of Schedule 2 (*Settlement Distribution Plan*);

"**Remaining Settlement Amount**" has the meaning set out in Paragraph 8.1 of Schedule 2 (*Settlement Distribution Plan*);

"**Reserved Settlement Amount**" has the meaning set out in Paragraph 8.1 of Schedule 2 (*Settlement Distribution Plan*);

"**Settlement Amount**" has the meaning set out in Clause 4.1.1;

"**Settlement Distribution Plan**" means the plan by which the Settlement Amount will be distributed to Eligible Shareholders as attached hereto as Schedule 2 (*Settlement Distribution Plan*);

"**SICAF**" has the meaning set out in the preamble of this agreement;

"**Submission**" has the meaning set out in Clause 6.1.1;

"**Subsidiary**" means any current or former direct or indirect subsidiary of Ageas, including BNP Paribas Fortis SA/NV;

"**Underwriting Banks**" means Merrill Lynch International, BNP Paribas Fortis SA/NV, ING Bank N.V., Coöperatieve Centrale Raiffeisen-Boerenleenbank B.A., Fox-Pitt, Kelton, Ltd, Mediobanca Banca di Credito Finanziario SpA, Santander

Investments S.A., Keefe, Bruyette & Woods Ltd., Dresdner Bank AG, CAYLON, KBC Securities SA/NV, Petercam SA/NV, Dexia Bank SA/NV, Bank Degroof SA/NV, and any of their legal predecessors or successors, each in its capacity as underwriter of the September 2007 share rights issue of Fortis N.V. and Fortis SA/NV;

"**VEB**" has the meaning set out in the preamble of this agreement.

2 Interpretation

2.1 References to persons

References to a person include any individual, company or partnership whether or not having separate legal personality and wherever incorporated, formed or registered.

2.2 Headings and references to Clauses, Schedules and Paragraphs

2.2.1 Headings have been inserted for convenience of reference only and do not affect the interpretation of any of the provisions of this agreement.

2.2.2 A reference in this agreement to:

- (a) a Clause or Schedule is to the relevant Clause of or Schedule to this agreement; and
- (b) a Paragraph is to the relevant Paragraph of the relevant Schedule.

2.3 Legal terms

In respect of any jurisdiction other than the Netherlands, a reference to any Dutch legal term will be construed as a reference to the term or concept which most nearly corresponds to it in that jurisdiction.

2.4 Other references

In this agreement, unless a contrary indication appears:

- (a) "**as of**" includes the day or moment referred to by it;
- (b) "**including**" means including without limitation (and all derivate terms are to be construed accordingly);

- (c) any reference to any "**gender**" includes all genders, and words importing the singular include the plural and vice versa.

Schedule 2 Settlement Distribution Plan

1 General principles

- 1.1** All provisions of this Settlement Distribution Plan are subject to this agreement not being terminated in accordance with Clause 7 of this agreement, and only in case of termination by Ageas in accordance with Clause 7.2 (*Termination*) Paragraph 6.2 of Schedule 2 (*Settlement Distribution Plan*) shall remain in full force and effect.
- 1.2** The Settlement Amount will be distributed to Eligible Shareholders on the terms and subject to the conditions of this Settlement Distribution Plan.
- 1.3** Eligible Shareholders who do not, or not timely, submit a Claim Form, or whose Claim Form has not been approved, will not be entitled to any compensation, but they will nevertheless be bound by the Binding Declaration.
- 1.4** The Claims Administrator shall determine each Eligible Shareholder's *pro rata* share of the Settlement Amount based upon each Eligible Shareholder's Claim Form and in accordance with this Settlement Distribution Plan.
- 1.5** Each ACG may prepare and collect the Claims Forms and supporting documentation of their respective Constituents who have authorised them to do so, and may each submit those completed Claim Forms collectively to the Claims Administrator for processing as soon as possible, but ultimately by the Exclusion Date.
- 1.6** If a Constituent of Deminor or SICAF or FortisEffect does not file a Claim Form through Deminor or SICAF or FortisEffect as relevant, the Claims Administrator shall notify Deminor or SICAF or FortisEffect as relevant, and the matter shall be referred to the Dispute Committee to determine whether such Constituent shall be eligible for the Early Distribution Amount, and the relevant part of the Early Distribution Amount shall not be distributed to such Constituent before the decision of the Dispute Committee.

2 Compensation for Eligible Shareholders

Subject to Paragraph 5 (*Limitations and successive allocation*), Eligible Shareholders, except for Excluded Persons, will be entitled to a compensation out of the Settlement Amount payable by Ageas in the amount of:

- (a) EUR 0.47 per Buyer 1 Share held;
- (b) EUR 0.23 per Holder 1 Share held;

- (c) EUR 1.07 per Buyer 2 Share held;
- (d) EUR 0.51 per Holder 2 Share held;
- (e) EUR 0.31 per Buyer 3 Share held;
- (f) EUR 0.15 per Holder 3 Share held.

3 Compensation Add-On

- 3.1** Eligible Shareholders will be entitled to an additional compensation of EUR 0.50 per Fortis Share held, with a maximum of EUR 950 per Eligible Shareholder, whereby the number of Fortis Shares held shall be the highest number held at any time by such Eligible Shareholder in the period 28 February 2007 c.o.b. through 14 October 2008 c.o.b., regardless of whether such Eligible Shareholder is entitled to other compensation under Paragraphs 2 or 4.
- 3.2** The aggregate amount of compensation to be allocated pursuant to Paragraphs 2 and 3 is referred to as the "**Compensation Amount**".

4 Cost Addition

- 4.1** In connection with the costs in whatever form or manner which it has incurred or agreed to incur in pursuing its alleged claim and realising the settlement, an Active Claimant is entitled to an additional amount equal to 25% (twenty five per cent) to be calculated on the amount of compensation per Fortis Share that such Active Claimant is entitled to pursuant to Paragraph 2(a) through (f) of this Schedule 2 (*Settlement Distribution Plan*) without taking into account any possible upward or downward adjustments to such amount pursuant to Paragraph 5 of Schedule 2 (*Settlement Distribution Plan*) (the "**Cost Addition**"), such Cost Addition being subject to the Cost Addition Cap (as defined in Paragraph 5.1.6 of this Schedule 2 (*Settlement Distribution Plan*)) and the successive allocation pursuant to Paragraph 5.2.2 of this Schedule 2 (*Settlement Distribution Plan*) that, for the avoidance of doubt, shall never exceed the Cost Addition Cap.
- 4.2** The aggregate amount of Cost Addition to be allocated pursuant to Paragraph 4.1 is referred to as the "**Cost Addition Amount**".

5 Limitations and successive allocation

5.1 Limitations

- 5.1.1** The maximum aggregate compensation for all Buyer 1 Shares, Buyer 2 Shares and Buyer 3 Shares pursuant to Paragraph 2 is EUR 507,700,000 (the "**Buyer Cap**"). If such aggregate amount is higher, then the compensation pursuant to

Paragraph 2(a), (c) and (e) will be adjusted downwards proportionally. If such aggregate amount is lower, then such difference will be used to increase, proportionally, the compensation per share set out in Paragraph 2 up to 100% of the amounts set out in Paragraph 2(b), (d) and (f) if those amounts have been adjusted downwards proportionally as a result of exceeding the Holder Cap (as defined in Paragraph 5.1.2 of this Schedule 2 (*Settlement Distribution Plan*)).

- 5.1.2 The maximum aggregate compensation for all Holder 1 Shares, Holder 2 Shares and Holder 3 Shares pursuant to Paragraph 2 is EUR 572,600,000 (the "**Holder Cap**"). If such aggregate amount is higher, then the compensation pursuant to Paragraph 2(b), (d) and (f) will be adjusted downwards proportionally. If such aggregate amount is lower, then such difference will be used to increase, proportionally, the compensation per share set out in Paragraph 2 up to 100% of the amounts set out in Paragraph 2(a), (c) and (e) if those amounts have been adjusted downwards proportionally as a result of exceeding the Buyer Cap.
- 5.1.3 The maximum aggregate compensation pursuant to Paragraph 3.1 is EUR 76,200,000 (the "**Add-On Cap**"). If such aggregate amount is higher, then the compensation per Eligible Shareholder pursuant to Paragraph 3.1 will be adjusted downwards proportionally. If such aggregate amount is lower, then the surplus of the Compensation Add-on will be used to compensate for any shortfall of the compensation pursuant to Paragraph 2 if such compensation has been adjusted downwards proportionally pursuant to Paragraph 5.1.1 or 5.1.2 of this Schedule 2 (*Settlement Distribution Plan*).
- 5.1.4 If after application of Paragraph 5.1.1 and 5.1.2 the Holder Cap or the Buyer Cap has not been reached and if the compensation pursuant to Paragraph 3.1 has been adjusted downwards proportionally pursuant to Paragraph 5.1.3 then any surplus shall be used to compensate for any shortfall of the compensation pursuant to Paragraph 3.1 up to 100% of the compensation set out in Paragraph 3.1
- 5.1.5 The Compensation Amount shall not exceed EUR 1,156,500,000 (the "**Compensation Cap**"). If the Compensation Amount is higher than the Compensation Cap, then the compensation per Fortis Share as set out in Paragraph 2 will be adjusted downwards proportionally.
- 5.1.6 The Cost Addition Amount shall not exceed EUR 152,000,000 (the "**Cost Addition Cap**"). If the Cost Addition Amount is higher than the Cost Addition Cap, then the Cost Addition pursuant to Paragraph 4 will be adjusted downwards proportionally.
- 5.2** Successive allocation

- 5.2.1 If the Compensation Cap has not been reached after the compensation per Fortis Share has reached 100% of the amounts as set out in Paragraph 2 and the compensation pursuant to Paragraph 3.1 has reached 100% of the amounts as set out in Paragraph 3.1, such surplus shall be used to increase the amounts as set out in Paragraph 2 proportionally by a maximum of 20%.
- 5.2.2 If the Cost Addition Cap has not been reached, such surplus shall be used to increase the amounts as set out in Paragraph 4.1 proportionally by a maximum of 20%.
- 5.2.3 Subject to and after the application of Paragraphs 5.2.1 and 5.2.2 (if applicable) and 7(c), if, after thirty-six (36) months after the date of the Binding Declaration or at a later point in time, any monies remain of the Settlement Amount after all reasonable efforts to distribute the Settlement Amount pursuant to the Settlement Distribution Plan have been taken, such monies will, subject to Article 7:910(2) DCC, be returned to Ageas.

6 Early distributions

- 6.1 As soon as practically possible after the Court has issued a Binding Declaration, an amount of 70% (seventy per cent) of the Provisional Claim Amount (the "**Early Distribution Amount**") will be paid in accordance with Paragraph 8 to all Eligible Shareholders who have submitted a valid and approved Claim Form on or before the Exclusion Date, which payment is subject to the Release.
- 6.2 If Ageas terminates this agreement in accordance with Clause 7 (*Termination*), each Eligible Shareholder who has submitted a valid and approved Claim Form on or before the Exclusion Date will be entitled to 100% of its respective Provisional Claim Amount subject to the Release which will be paid to these Eligible Shareholders as soon as practically possible.

7 Remaining distributions

The Parties shall procure that the remainder of the Settlement Amount attributable to Eligible Shareholders, not distributed pursuant to Paragraph 6 (the "**Remaining Distribution Amount**"), shall be distributed as soon as practicably possible after the respective early distributions pursuant to such Paragraph. In furtherance thereof they shall agree with the Claims Administrator on a distribution process, based on the following principles:

- (a) The calculation of the Remaining Distribution Amount shall reflect any possible adjustments to the Provisional Claim Amount in respect of an Eligible Shareholder pursuant to Paragraph 5 of this Schedule 2 (*Settlement Distribution Plan*) to determine the final claim amount in respect of such Eligible Shareholder (the "**Final Claim Amount**").

- (b) The Remaining Distribution Amount shall be distributed as soon as practically and reasonably possible after the Claims Submission Deadline and only after the Claim Forms received on or before the Claims Submission Deadline have been processed, including the resolution and cure of any deficiencies in Claim Forms submitted, in order to ensure that the Final Claim Amount in respect of all Eligible Shareholders shall be correct, within a limited margin of error.
- (c) To take into account a limited margin of error in claims processing, potential subsequent turn out of unprocessed Claim Forms, or unresolved deficiencies, the Remaining Distribution Amount shall only be distributed up to a maximum of 95% of the Settlement Amount after the processing as referred to under (b) above. The remainder shall be distributed at the earliest six (6) months thereafter and as of that moment as soon as practically and reasonably possible.

8 Funds flow and payment mechanism

- 8.1** Ageas has paid EUR 240,700,000 by mean of deposit to the bank account of the Foundation (the "**Reserved Settlement Amount**"). The remainder of the Settlement Amount remains with Ageas (the "**Remaining Settlement Amount**") and must be reserved, and be itemised in the quarterly regulatory filings and statements of Ageas, and evidence thereof must be provided to the Foundation as long as there is still some final payment to be made pursuant to this agreement.
- 8.2** The Claims Administrator shall determine the amount of any payment to be made pursuant to Paragraphs 6 and 7. Within ten (10) Business Days after making such determination in respect of such payment, the Claims Administrator shall set a date for such payment (in each case the "**Payment Date**"), and shall notify the Foundation. Within ten (10) Business Days after such notification, such payment shall be made from the requisite part of the Reserved Settlement Amount, and if insufficient the requisite part of the Remaining Settlement Amount by the Payment Date, in each case unless it is not reasonably possible to make the payments contemplated by this Paragraph 8.2 within the time limits set out therein.
- 8.3** Approved compensation for a Constituent of an ACG (except for VEB) shall be paid through an independent agent or trustee appointed by the respective ACG and acting as agent or trustee for such Constituent, in the manner set out under (a) below, while such ACG accepts full responsibility and liability towards both its Constituents and Ageas that payments are made to its Constituents in full accordance with this agreement and any direct agreements between each Constituent and the respective ACG, and provided that:

- (a) the payment by Ageas shall be made to a trust account (*derdengeldenrekening*) or clients' account (*kwaliteitsrekening*) of an independent third party and such payments as well as the payments from such account to the respective Constituents shall be supervised by an independent third party (e.g. an attorney, accountant or notary) appointed by the relevant ACG at its own expense;
- (b) such Constituent irrevocably and explicitly consents to Ageas paying such compensation through the relevant ACG (either in the Claim Form or otherwise); and
- (c) such Constituent provides Ageas with full and final discharge upon the relevant payment being made through the relevant ACG (*bevrijdende betaling*).

8.4 The further mechanism of payments pursuant to this Paragraph 8 shall be agreed between Ageas, the Foundation and the Claims Administrator, and shall inter alia take into account (i) speed of payment; (ii) customary payment practices in multi-jurisdictional mass claim settlements in Europe; and (iii) cost.

Schedule 3 Draft Binding Declaration Notice

MEDEDELING VAN DE VERBINDENDVERKLARING VAN DE FORTIS SCHIKKING

op grond van artikel 1017 lid 3 Wetboek van Burgerlijke Rechtsvordering, op verzoek en aanwijzing van het gerechtshof Amsterdam ("Hof").

Deze mededeling is gericht aan alle (rechts)personen die aandelen Fortis hebben gekocht of gehouden op enig moment in de periode na 28 februari 2007 tot en met 14 oktober 2008 (dit zijn de "in aanmerking komende aandeelhouders").

Verbindendverklaring van de Overeenkomst

Het Hof heeft de schikkingsovereenkomst die is gesloten tussen Ageas (het voormalige Fortis), VEB, Deminor, SICAF, FortisEffect en Stichting FORsettlement (de "Overeenkomst") bij beschikking van [●] onherroepelijk verbindend verklaard.

Inhoud van de Overeenkomst

De Overeenkomst kent de in aanmerking komende aandeelhouders onder bepaalde voorwaarden een vergoeding toe in verband met de gebeurtenissen die in 2007 en 2008 zijn voorgevallen bij het voormalige Fortis (inmiddels Ageas). Het betreft gebeurtenissen die van invloed kunnen zijn geweest op de koers van de aandelen, met name de communicatie (dan wel het gebrek daaraan) en het beleid van Fortis ten aanzien van haar financiële positie, de aanloop naar de opsplitsing van Fortis en de overname van ABN AMRO, zoals nader omschreven in de Overeenkomst.

Gevolgen van verbindendverklaring

Doordat het Hof de Overeenkomst verbindend heeft verklaard, zijn alle in aanmerking komende aandeelhouders in beginsel aan de Overeenkomst gebonden. De Overeenkomst geeft de in aanmerking komende aandeelhouders onder de in de Overeenkomst omschreven voorwaarden aanspraak op een vergoeding. Daar staat tegenover dat de in aanmerking komende aandeelhouders op de in de Overeenkomst omschreven wijze finale kwijting verlenen aan Ageas, de (voormalige) functionarissen van Ageas en de begeleidende banken, voor de gebeurtenissen die zich in 2007 en 2008 hebben voorgedaan bij Fortis.

Aanspraak maken op een vergoeding

Personen die in aanmerking willen komen voor een vergoeding onder de Overeenkomst dienen daarvoor een claimformulier in te dienen. Een claimformulier kan worden gedownload via de website www.forsettlement.com en kan telefonisch worden opgevraagd via de hieronder genoemde telefoonnummers (zie onder "Meer informatie en contact"). Personen dienen het door hen volledig ingevulde en ondertekende claimformulier (tezamen met de gevraagde bewijsstukken) toe te zenden aan de Claims

Administrator op het hieronder genoemde postadres (zie onder "Meer informatie en contact") of via de website [www.forsettlement.com]. Het claimformulier dient uiterlijk op [**datum 366 dagen na de 'Binding Declaration Notice Date'**] te zijn ontvangen door de Claims Administrator, of de poststempel van die datum te dragen. In aanmerking komende aandeelhouders die niet tijdig een claimformulier indienen op de voorgeschreven wijze, kunnen geen aanspraak (meer) maken op een vergoeding. Verdere informatie over de indiening van het claimformulier staat op het claimformulier en in de bijbehorende toelichting.

'Opt-out' mogelijkheid

Indien een in aanmerking komende aandeelhouder niet aan de Overeenkomst gebonden wil zijn, dient hij binnen drie maanden, dus uiterlijk op [**datum drie maanden na de 'Binding Declaration Notice Date'**] een verklaring van die strekking (een "**opt-outverklaring**") te sturen aan de Claims Administrator. In aanmerking komende aandeelhouders die rechtsgeldig een opt-outverklaring indienen, zijn niet aan de Overeenkomst gebonden en kunnen ook geen aanspraak maken op een vergoeding uit hoofde van de Overeenkomst of enig ander recht aan de Overeenkomst ontleen.

Een opt-outverklaring kan worden ingediend bij de Claims Administrator op elektronische wijze (**[nadere omschrijving volgt]**) of per post op het hieronder genoemde postadres (zie onder "Meer informatie en contact").

In aanmerking komende aandeelhouders worden verzocht om voor een opt-outverklaring gebruik te maken van de modelbrief opt-outverklaring die gedownload kan worden van www.forsettlement.com en telefonisch opgevraagd kan worden via de telefoonnummers zoals hieronder aangegeven (zie onder "Meer informatie en contact"). De opt-outverklaring moet de naam, het adres, het telefoonnummer en het e-mailadres van de in aanmerking komende aandeelhouder bevatten. Verder worden in aanmerking komende aandeelhouders verzocht op te geven hoeveel aandelen in Fortis de in aanmerking komende aandeelhouder hield op bepaalde in de Overeenkomst genoemde data en te vermelden of hij is aangesloten bij VEB, Deminor, SICAF en/of FortisEffect.

Meer informatie en contact

De beschikking van het Hof waarbij de schikking verbindend is verklaard en de Overeenkomst zijn in te zien, te downloaden en te printen op www.rechtspraak.nl (onder "actualiteiten") en www.forsettlement.com. Op laatstgenoemde website is ook andere relevante documentatie te vinden. Met nadruk wordt aangeraden de website www.forsettlement.com te raadplegen voor het volgen van verdere berichtgeving.

Het postadres van de Claims Administrator is:

Computershare
Postbus 6320
3002 AH Rotterdam
Nederland

Voor de antwoorden op veel gestelde vragen kunt u terecht op www.forsettlement.com/page/support. Mocht u verdere vragen hebben, neemt u dan contact op met het Contactcentrum FORsettlement via het contactformulier op www.forsettlement.com/page/contact of via onderstaande telefoonnummers:

- België: [●]
- Nederland: [●]
- Internationaal: [●]

* * *

Schedule 4 Determination of Opt-Out Amount

If an Eligible Shareholder delivers an Opt-Out Notice under Clause 6.3.1 and such Opt-Out Notice fails to provide the information set out in Clause 6.3.2, the following steps will be taken to establish the portion of the Settlement Amount that would have been received by such Eligible Shareholder had he not delivered an Opt-Out Notice. The amount so calculated shall be used for the purpose of determining the Opt-Out Amount and to establish Ageas' right to terminate this agreement (and for that purpose only) pursuant to Clause 7.2.1.

1 **EFFORTS TO OBTAIN INFORMATION**

- 1.1** Within five (5) Business Days of receiving an Opt-Out Notice, the Claims Administrator shall use its reasonable efforts to contact the Eligible Shareholder who delivered the Opt-Out Notice to obtain the information set out in Clause 6.3.2.
- 1.2** If the Claims Administrator is unable to obtain the information set out in Clause 6.3.2 from the Eligible Shareholder pursuant to Paragraph 1.1, then the Claims Administrator shall work with the Parties, which will use their collective reasonable efforts to obtain the necessary information from alternative sources.
- 1.3** If, after all reasonable efforts have been made by the Claims Administrator and by the Parties pursuant to Paragraphs 1.1 and 1.2, and the Claims Administrator has been unable to obtain the information set out in Clause 6.3.2 for the Eligible Shareholder who failed to submit the information, then the portion of the Settlement Amount attributable to that Eligible Shareholder for the purpose of establishing the Opt-Out Amount shall be determined in accordance with the principles set out in Paragraph 2.

2 **USE OF AVERAGES**

2.1 **Categories of persons who have delivered an Opt-Out Notice**

For the purpose of establishing the Opt-Out Amount only, an Eligible Shareholder who has delivered an Opt-Out Notice can either be qualified as an Eligible Shareholder or as an Eligible Shareholder who is also an Active Claimant, and either as an Institutional or an Individual (as defined in Paragraph 2.3). Therefore, four categories of persons who have delivered an Opt-Out Notice will be distinguished:

- (a) Active Claimant Institutional
- (b) Active Claimant Individual

- (c) Eligible Shareholder Institutional
- (d) Eligible Shareholder Individual

2.2 Eligible Shareholder and Active Claimant

An Eligible Shareholder who has delivered an Opt-Out Notice will be considered, for the purpose of establishing the Opt-Out Amount only, as an Eligible Shareholder not being an Active Claimant, unless the Claims Administrator is able to determine with certainty that such Eligible Shareholder would have qualified as an Active Claimant (e.g. such Eligible Shareholder's name is included on a complaint, request to voluntarily intervene in pending proceedings (*verzoek tot vrijwillige tussenkomst*), writ of summons, or has intervened in criminal proceedings, all as described in the definition of Active Claimant under (a), or if an ACG confirms such to the Claims Administrator in writing).

2.3 Institutional or Individual

A person who has delivered an Opt-Out Notice will be considered as an "**Institutional**" if such person is a generally accepted institutional investor, such as but not limited to, a pension fund, insurance company, hedge fund, other financial institution. If this is not the case, then such person will be considered an "**Individual**".

2.4 Number of Fortis Shares

- 2.4.1 As soon as possible after the Exclusion Date, the Claims Administrator will calculate four average amounts of compensation, one for each of the four categories as set out in Paragraph 2.1, that an Eligible Shareholder who delivered an Opt-Out Notice would have received, based on the compensation to be allocated to Eligible Shareholders who have submitted a Claim Form before the Exclusion Date.
- 2.4.2 If an Eligible Shareholder who has delivered an Opt-Out Notice can be classified in one of four categories as set out in Paragraph 2.1, the average amount of compensation that would have been received by such Eligible Shareholder in that category will be used to determine the deemed compensation amount attributable to such Eligible Shareholder for purposes of establishing the Opt-Out Amount.
- 2.4.3 If an Eligible Shareholder who has delivered an Opt-Out Notice cannot be qualified as an Institutional or as an Individual (e.g. because such Eligible Shareholder has not provided any information regarding the number of Fortis Shares held), then the average of the amounts to be allocated to an Institutional and an Individual on the basis of Paragraph 2.4.1 will be used to determine the

deemed compensation amount attributable to such Eligible Shareholder for purposes of establishing the Opt-Out Amount.

- 2.4.4 If only the total amount of Fortis Shares of the Eligible Shareholder who has delivered an Opt-Out Notice is specified, without further specification of the holding pattern over the periods, then the average holding pattern (%Buyers, %Holders per period) which corresponds to the class to which the Eligible Shareholder has been assigned to will be applied to determine the deemed compensation amount attributable to such Eligible Shareholder.

ANNEX 30

**ECONOMIC EXPERTISE REGARDING THE REVISED PROPOSED
SETTLEMENT BETWEEN CLAIMANTS' ORGANIZATIONS AND
AGEAS SA/NV**

By

ANALYSIS GROUP, INC.

**Marc Van Audenrode, Ph.D.
Managing Principal**

12 December 2017

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1 INTRODUCTION

1.1 Context for this report

1. In May of 2016, we – an Analysis Group team led by Dr. Marc Van Audenrode – filed an expert report¹ (the “May 2016 Report”) evaluating the economic reasonableness of the settlement agreement entered into between Ageas SA/NV (“Ageas”) and a number of claimants’ organizations on 14 March 2016 (the “Settlement Agreement”) and submitted to the Amsterdam Court of Appeal (the “Court”) for approval in the context of a collective settlement procedure. More specifically, Ageas had asked us to:
 - a. Calculate the potential price impact (“inflation”) that might be associated with specific Fortis communications, which claimants have alleged to be defective.
 - b. Calculate the number of Fortis shares to which these potential price inflations would apply for each of the three periods being claimed in this settlement during which claimants have alleged that there were defective communications by Fortis (the “reference periods”²).
 - c. Estimate whether the total amount awarded in the Settlement Agreement is adequate for compensating those shareholders who allegedly suffered economic losses and could claim compensation.
2. Based on our review of information and data available to us at the time of the report, we found that the principles set forth in the Settlement Agreement between Ageas and claimants’ organizations at the time fairly compensated eligible shareholders for potential economic losses attributable to the allegedly defective communications by Fortis during the three reference periods being claimed in the Settlement Agreement.

¹ *Economic Expertise Regarding the Proposed Settlement between Claimants’ Organizations and Ageas SA/NV* by Analysis Group, Inc. and Marc Van Audenrode, Ph.D., Managing Principal, 20 May 2016.

² The reference periods are as follows: 21 September to 7 November 2007 (Reference Period 1); 13 May to 25 June 2008 (Reference Period 2); and 29 September to 3 October 2008 (Reference Period 3). *See* Settlement Agreement, pp. 4-5.

3. Further to that report, in February of 2017, the same Analysis Group team filed an additional report.³ This rebuttal report responded to certain objections raised by a group of Defendants⁴ who were asking the Court to reject the Settlement Agreement, questioned the relevance of the analyses presented in our May 2016 Report, and challenged some of our conclusions.
4. In March of 2017, the same team provided additional responses to arguments and claims made by an expert for the Defendants, Dr. Plantinga.⁵ Finally, also in March of 2017, we provided the Court with some additional guidance regarding the interpretation of Table 7 in the May 2016 Report.⁶
5. In its June 16, 2017 decision,⁷ the Court suggested some areas of improvements in the Settlement Agreement and raised certain concerns about some aspects of the Settlement Agreement. The Court suggested that the parties amend the Settlement Agreement and return with a new agreement that would alleviate the Court's concerns. Accordingly, after further negotiation, the Parties have reached a revised settlement agreement on 12 December 2017 (the "New Settlement Agreement").⁸
6. Dr. Van Audenrode's updated curriculum vitae, which includes a selection of his casework and a complete list of publications, is attached as **Appendix A** to this report.

1.2 Mandate

7. We have been mandated by Ageas to provide economic expertise on whether the New Settlement Agreement entered into between Ageas and claimants' organizations continues to be "fair and reasonable" from an economic perspective and adequately responds to some of the concerns raised by the Court in its June 16, 2017 interim decision. More specifically, Ageas has asked us to:

³ *Economic Responses to the Objections against the Proposed Settlement between Claimants' Organizations and Ageas SA/NV* by Analysis Group, Inc. and Marc Van Audenrode, Ph.D., Managing Principal, 24 February 2017.

⁴ The Defendants are listed in Appendix 1 of the Statement of Defense by Lawyers for Petitioners.

⁵ *Responses to the Arguments raised by Dr. Plantinga regarding our May 2016 Report in support of the Proposed Settlement between Claimant's Organizations and Ageas SA/NV*, by Analysis Group, Inc. and Marc Van Audenrode, Ph.D., Managing Principal, 21 March 2017.

⁶ *In response to the Court's questions regarding table 7 in our May 2016 report*, by Analysis Group, Inc. and Marc Van Audenrode, Ph.D., Managing Principal, 31 March 2017.

⁷ Court of Appeal of Amsterdam, civil law and tax law section, team I, case number: 200.191.713/01, Ruling of the three-judge civil division dated 16 June 2017 regarding the request for an order to declare an agreement binding as referred to in article 7:907 (1) of the Dutch Civil Code (DCC), para. 8.8 (unofficial translation)

⁸ Amended and Restated Settlement Agreement, Within the meaning of Article 7:907 of the Dutch Civil Code, between Ageas SA/NV and Vereniging van Effectenbezitters and DRS Belgium CVBA and Stichting Investor Claims Against FORTIS and Stichting FORsettlement and Stichting FortisEffect, dated 12 December 2017.

- a. Estimate whether the New Settlement Agreement continues to adequately compensate eligible shareholders who may have suffered economic losses.
 - b. Estimate whether the newly proposed amounts can be deemed fair and reasonable from an economic standpoint.
8. Moreover, despite the fact that the parties agreed to recognize investors who subscribed to a rights issue as eligible shareholders on the basis of a so-called buyer compensation, we would still like to clarify our economic position in this respect. In **Appendix C**, we provide an explanation as to why the economic losses incurred these investors is independent of any rights issue discount, that is, the amount investors have to pay to subscribe to new shares in combination with the rights that they hold.

1.3 Material Considered

9. In preparing this report, we have relied upon documents and other materials produced during the proceedings, as well as various industry publications and other publicly available material. **Appendix B** contains a list of documents and material considered in the preparation of this report.
10. We reserve the right to update, refine or revise our opinions, or form additional opinions if new information becomes available.

1.4 Disclaimer

11. The contents of this report should not be deemed or construed as an admission or evidence of any wrongdoing or liability on the part of Ageas. Estimates of economic losses contained in this report are calculated based on assumptions, including the assumption that there is share price inflation attributable to allegedly defective communications by Fortis during the reference periods. In other words, while firm-specific communications have an impact on firm share prices, such impact is only considered an artificial price inflation if the communication was defective and should not have taken place. To the extent that the communication was appropriate, the price impact is legitimate and does not represent share price inflation. If the communication was defective, in the sense that it should have taken a more nuanced form, then the price impact of the communication is an upper bound on the amount of price inflation that might be due to the defective communication because it assumes that the entirety of the communication was defective. All of our estimates herein therefore represent *alleged* potential investor losses and should not be construed as legally recoverable economic losses for shareholders eligible for compensation.

1.5 Structure of the Report

12. **Section 2** provides a summary of our conclusions. **Section 3** summarizes the main features of the New Settlement Agreement between Ageas and claimants' organizations. **Section 4** presents our assessment of the economic reasonableness of the New Settlement Agreement. Finally, **Section 5** specifically discusses the "Cost Addition" included in the New Settlement Agreement.

2 SUMMARY OF CONCLUSIONS

13. Based on our review of available information and data, we find that the principles set forth in the New Settlement Agreement between Ageas and claimants' organizations fairly compensate eligible shareholders for potential economic losses attributable to allegedly defective communications by Fortis during the three reference periods.
14. This conclusion is based on our analysis of the main components of this New Settlement Agreement. Specifically, we find that:
 - a. The per-share compensation offered to shareholders who purchased Fortis shares during the three periods at issue are sufficient to compensate them for any economic losses that may have resulted from allegedly inappropriate disclosure by Fortis during these periods.
 - b. The overall amount offered by Ageas in this settlement is sufficient to protect claimants who may have suffered economic losses as a result of the allegedly inappropriate disclosure by Fortis during these periods from the risk of not being adequately compensated for these economic losses, even at very high levels of take-up by claimants.
 - c. The additional compensation offered to claimants who brought this settlement forward as well as the compensation offered to claimants' organizations are within the range of compensations observed in similar litigations in the United States and Europe.

3 MAIN FEATURES OF THE PROPOSED NEW SETTLEMENT AGREEMENT

15. Ageas and claimants' organizations have amended the Settlement Agreement, while retaining some of its basic features. The New Settlement Agreement continues to distinguish between shares qualified as 'Holders' and shares qualified as 'Buyers.' It also continues to offer per-share compensation for three periods. These compensations are defined in Paragraph 2 of Schedule 2 to the New Settlement Agreement (the "Settlement Distribution Plan"):
- a. In Period 1, Buyers receive 0.47 EUR, while Holders receive 0.23 EUR.
 - b. In Period 2, Buyers receive 1.07 EUR, while Holders receive 0.51 EUR.
 - c. Finally, in Period 3, Buyers receive 0.31 EUR, while Holders receive 0.15 EUR.

These per share amounts are between 19% and 26% higher than the per share amounts offered to Non-Active Claimants in the Settlement Agreement.

16. No distinction is made between claimants regarding per-share compensation. In addition, claimants are eligible to a compensation of 0.50 EUR (the "Compensation Add-On") per share held between February 28, 2007 and October 14, 2008, as defined in the Agreement with a maximum of 950 EUR per claimant.⁹
17. Maximum aggregate per-share compensation is limited to 507.7 million EUR for Buyers in all three periods, and to 572.6 million EUR for Holders. Maximum aggregate compensation for Compensation Add-On is 76.2 million EUR.¹⁰
18. In recognition of the actions they have taken, the costs and the risks they have incurred, the compensation for Active Claimants¹¹ is increased by 25% (the "Cost Addition"), with a maximum aggregate total for Cost Addition not to exceed 152 million EUR.¹²

⁹ Settlement Distribution Plan, para. 3.

¹⁰ Settlement Distribution Plan, para. 5.1.1, 5.1.2 and 5.1.3.

¹¹ The Cost Addition will only be applied to the compensation for Buyers and/or Holders, and not to the Compensation Add-on.

¹² Settlement Distribution Plan, para. 4 and 5.1.6.

19. The total amount potentially available to claimants under this New Settlement Agreement is 1,308.5 million EUR.
20. In the next section, we briefly summarize the principles that we adopted to assess the economic reasonableness of the Settlement Agreement in our May 2016 Report. We then apply these principles to evaluate the reasonableness of this New Settlement Agreement.

4 ECONOMIC REASONABLENESS OF THE NEW SETTLEMENT AGREEMENT

4.1 Assessment of the Settlement Agreement in our May 2016 Report

21. Our May 2016 and February 2017 Reports provided a very detailed analysis of the economic reasonableness of the Settlement Agreement as it was then. Our analyses were conducted along two lines of inquiry:

- a. First, whether the Settlement Agreement adequately compensates claimants for the economic losses they might have suffered as a result of Fortis' alleged wrongdoing.
- b. Second, whether the risks of dilution are reasonable if claimants seek compensation in proportions that are higher than what could reasonably be expected.

At the time, we concluded that eligible shareholders were adequately compensated for their potential economic losses attributable to allegedly defective communications by Fortis during the three reference periods. We further found that, at levels of take-up rates consistent with historical precedents, they faced a reasonable risk of dilution.

4.2 Assessment of the New Settlement Agreement

22. Given that the New Settlement Agreement offers per share amounts that are significantly larger than the amounts we considered in our May 2016 Report and an overall compensation that is more than 100 million EUR higher than the previous agreement, it would be highly unlikely that this New Settlement Agreement would not be found to adequately compensate all claimants. Moreover, the New Settlement Agreement includes new features that provide additional benefits to all claimants:

- a. **Similar treatment of claimants:** the New Settlement Agreement eliminates distinctions between claimants, specifically between so-called active and non-active claimants, in the per-share compensation and in the Compensation Add-on. Moreover, in the New Settlement Agreement the risk of dilution is equally shared.
- b. **Improved protection for Buyers against dilution:** the New Settlement Agreement also introduces further protection for Buyers, by capping the amount that Holders may

receive.¹³ This feature is important to us because, as economists, we consider that Claimants' economic losses, if any, originate from the purchase of shares during the period of price elevation.¹⁴

- c. **Compensation for cost and risk:** finally, the New Settlement Agreement continues to recognize the role played by Active Claimants in bringing this settlement forward, through the so-called Cost Addition, that is justified based on the costs they incurred and on the risk they took. We analyze the Cost Addition in **Section 5** of this Report.

- 23. In the next section, we assess the New Settlement Agreement in more detail, and in particular the risk of dilution.

4.3 Per-Share Compensation to Buyers

4.3.1 Per Share Amounts

- 24. In our May 2016 Report,¹⁵ we had estimated the potential price elevation for Period 1 to be 0.68 EUR, 0.65 EUR for Period 2, and 0.23 EUR for Period 3. The New Settlement Agreement offers now per-share compensations to all Buyers of 0.47 EUR, 1.07 EUR, and 0.31 EUR, respectively. Given that these per-share compensations are higher than they were in the Settlement Agreement, and for all the reasons we listed in our May 2016 Report¹⁶ we continue to believe that the potential economic losses potentially suffered by shareholders are adequately compensated.

4.3.2 Risk of Dilution and Compensation of Economic losses

- 25. The New Settlement Agreement introduces a separate cap on the maximum amount to be paid to Buyers and Holders respectively. We noted earlier that as economists, we consider that claimants'

¹³ The caps on payments to Active and Non-Active Claimants that existed in the Settlement Agreement ("Box 1" and "Box 2") do not exist in the New Settlement Agreement. There is an amount available for the compensation of Buyers and an amount available for the compensation of Holders. Please note that money that remains after Buyers have received 100% of the per-share compensation will be used to increase the per-share compensation of Holders to 100% of the per-share compensation under the New Settlement Agreement, and vice versa. Any monies that remain after that will be first used to compensate a shortfall – if any – in the Compensation Add-On before increasing the per-share compensation with up to 20% of the per-share compensation (i.e. to a maximum of 120%).

¹⁴ May 2016 Report, p. 16.

¹⁵ May 2016 Report, Table 6.

¹⁶ May 2016 Report, para. 75 to 78

economic losses, if any, originate from the purchase of shares during the period of price elevation. Importantly, the separate caps provide additional protection to those shareholders who suffered potential economic losses (the Buyers). This section revisits our assessment of the risk of dilution, taking into account that, in accordance with the New Settlement Agreement, the compensations of Buyers and Holders are connected through potential reallocation between the two groups in case one reaches a maximum capped amount while the other has a surplus.

26. **Table 1** shows the estimation we performed in our May 2016 Report of the total number of shares of the three reference periods being held and bought both by Active and Non-Active groups (columns 3 to 6) under different trading scenarios and a range of hypotheses regarding Non-Active take-up rates (columns 1 and 2.)¹⁷ **Table 1** also shows our estimation of the potential economic losses suffered given our overall estimate of the number of Buyer shares (column 7). Finally, applying the per-share compensations promised in the New Settlement Agreement, columns 8 and 9 show the amounts that should be paid according to the New Settlement Agreement to Buyers and Holders, respectively, absent any dilution or reallocation.

Blended Take-Up Rate	Non-Active Take-Up Rate	Assumed Take-up of Estimated Total (Regular and Subscriber) Shares from TTM (Millions) ⁽¹⁾				Estimated Potential Economic Loss for all Buyers (Active and Non-Active)	Estimated Settlement Compensation (EUR, Millions)	
		Buyers		Holders			Buyers	Holder
		Active	Non-Active	Active	Non-Active			
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
TTM Scenario 1 - Traders Hold 10% of Total Float and 80% of Daily Volume								
35%	15%	389.1	226.6	1,208.6	555.0	€209.4	€360.8	€537.1
39%	20%	389.1	302.2	1,208.6	740.0	€233.7	€402.3	€592.0
43%	25%	389.1	377.7	1,208.6	925.0	€257.9	€443.8	€646.9
46%	30%	389.1	453.3	1,208.6	1,110.0	€282.1	€485.3	€701.7
50%	35%	389.1	528.8	1,208.6	1,294.9	€306.4	€526.7	€756.6
TTM Scenario 3: Traders Hold 10% of Total Float and 60% of Daily Volume								
35%	15%	389.1	281.8	1,208.6	499.8	€261.1	€397.3	€519.5
39%	20%	389.1	375.8	1,208.6	666.4	€296.6	€451.0	€568.5
43%	25%	389.1	469.7	1,208.6	833.0	€332.0	€504.7	€617.6
46%	30%	389.1	563.6	1,208.6	999.6	€367.5	€558.3	€666.6
50%	35%	389.1	657.6	1,208.6	1,166.2	€402.9	€612.0	€715.6

Table 1. Comparison between “Maximum” Potential Economic Loss for Qualifying Shares. Note: Assumed Take-up of Estimated Total Shares is calculated by multiplying the Active and Non-Active take-up rate in each scenario by the number of Regular and Subscriber shares estimated by the Two Trader Model (“TTM”).

27. **Table 2** shows the potential impact of the Buyer and Holder Caps by comparing the amounts that should be paid according to the New Settlement Agreement to Buyers and Holders absent any

¹⁷ See our May 2016 Report, Table 7. As explained in **Appendix C**, our estimate of shares bought includes subscription shares acquired after purchasing rights from existing shareholders.

dilution or reallocation, with the settlement payouts to Buyers and Holders, respectively, after dilution (but before reallocation). The table shows that the cap on Holders, is reached at levels of take-up (i.e. that is the blended take-up rate) equal to 39 or 43% depending on the scenario. On the other hand, the cap on Buyers is only reached at even higher (blended) take-up rates (46 or 50%). As explained in our May 2016 Report such a percentage would be quite high if and when compared to available data of other settlements. As a consequence of dilution, in scenarios under which a cap is binding (marked in red in columns 5 and 6), claimants would receive less than 100% of the per-share compensation amounts envisaged in the New Settlement Agreement.

Blended Take-Up Rate	Non-Active Take-Up Rate	Estimated Settlement Compensation (EUR, Millions) [From Table 1]		Estimated Settlement Compensation After Dilution, Before Reallocation (EUR, Millions)	
		Buyer	Holder	Buyer ^[1]	Holder ^[2]
(1)	(2)	(3)	(4)	(5)	(6)
TTM Scenario 1 - Traders Hold 10% of Total Float and 80% of Daily Volume					
35%	15%	€360.8	€537.1	€360.8	€537.1
39%	20%	€402.3	€592.0	€402.3	€572.6
43%	25%	€443.8	€646.9	€443.8	€572.6
46%	30%	€485.3	€701.7	€485.3	€572.6
50%	35%	€526.7	€756.6	€507.7	€572.6
TTM Scenario 3: Traders Hold 10% of Total Float and 60% of Daily Volume					
35%	15%	€397.3	€519.5	€397.3	€519.5
39%	20%	€451.0	€568.5	€451.0	€568.5
43%	25%	€504.7	€617.6	€504.7	€572.6
46%	30%	€558.3	€666.6	€507.7	€572.6
50%	35%	€612.0	€715.6	€507.7	€572.6
				€507.7	€572.6
				Buyer Cap	Holder Cap

Table 2. Comparison between Total Estimated Settlement Compensation for Buyers (resp. Holders) and the Buyer (resp. Holder) Cap. Note: Scenarios in which the total estimated compensation for Buyers (resp. Holders) reach the Buyer (resp. Holder) Cap, excluding any reallocation, are highlighted in red.

28. **Table 3** shows the potential impact of reallocation on compensation. Under paragraphs 5.1.1 and 5.1.2 of the Settlement Distribution Plan, reallocation can happen only if one of the two caps is reached and the other one is not. No reallocation takes place if no cap is reached or if both are. Reallocation is limited to bringing per-share compensation amounts in the other cap to 100% of the per-share compensation amounts set out in the New Settlement Agreement. Columns 5 and 6 show the amounts available for reallocation in each cap. Columns 7 and 8 show the total amounts available to Buyers and Holders after reallocation, again marking in red scenarios where per-share compensation would be adjusted downward due to binding Buyer and Holder Caps. Importantly,

precisely as a result of the reallocation aimed at increasing suppressed per-share compensation, these total amounts can now exceed the Buyer and Holder Caps.

Blended Take-Up Rate	Non-Active Take-Up Rate	Estimated Settlement Compensation After Dilution, Before Reallocation (EUR, Millions) [From Table 2]		Remaining Holder amount to be reallocated to Buyers ^[3] (EUR, Millions)	Remaining Buyer amount to be reallocated to Holders ^[4] (EUR, Millions)	Settlement Compensation after Buyer and Holder surplus reallocation (EUR, Millions)	
		Buyer ^[1]	Holder ^[2]			Buyers	Holdes
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
35%	15%	€360.8	€537.1	€0.0	€0.0	€360.8	€537.1
39%	20%	€402.3	€572.6	€0.0	€105.4	€402.3	€592.0
43%	25%	€443.8	€572.6	€0.0	€63.9	€443.8	€636.5
46%	30%	€485.3	€572.6	€0.0	€22.4	€485.3	€595.0
50%	35%	€507.7	€572.6	€0.0	€0.0	€507.7	€572.6
35%	15%	€397.3	€519.5	€0.0	€0.0	€397.3	€519.5
39%	20%	€451.0	€568.5	€0.0	€0.0	€451.0	€568.5
43%	25%	€504.7	€572.6	€0.0	€3.0	€504.7	€575.6
46%	30%	€507.7	€572.6	€0.0	€0.0	€507.7	€572.6
50%	35%	€507.7	€572.6	€0.0	€0.0	€507.7	€572.6
		€507.7	€572.6				
		Buyer Cap	Holder Cap				

Table 3. The effects of Buyer and Holder Cap surplus reallocation and possible dilution. Note: Scenarios in which the total estimated compensation for Buyers (resp. Holders) reach the Buyer (resp. Holder) Cap, taking into account any reallocation, are highlighted in red.

29. Under paragraph 5.1.4 of the Settlement Distribution Plan, if the Compensation Cap on the per-share compensation (the sum of the Buyer Cap plus the Holder Cap) is not reached after reallocation, the remaining amounts are first used to increase the amounts received by shareholders in the Compensation Add-on. The Compensation Add-on can only be increased up to 100% of the amount promised under paragraphs 5.1.3 of the Settlement Distribution Plan, if this cap on the Compensation Add-on has been reached. If after that reallocation, there is still money left under the Compensation Cap, per-share compensation can be increased by up to 20% of the Buyer and Holder compensation amounts set out in **Table 3** in accordance with paragraph 5.2 of the Settlement Distribution Plan.
30. Figuring out whether the 76.2 million EUR cap on the Compensation Add-on will be reached is a complex question, as it depends not just on the number of shares for which shareholders will claim compensation, but of the number of shares each of them holds. We know that approximately 800 large institutional shareholders held substantially more than half the Fortis float at the time, all of them receiving at most 950 EUR in terms of Compensation Add-on.¹⁸ Hence, it seems unlikely in

¹⁸ Thomson Reuters, Fortis Institutional Shareholder Survey as at 30 June 2008.

our opinion that the cap on the Compensation Add-on will be reached and that there will be reallocation from the per-share compensation towards the Compensation Add-on. For simplicity, however, we also assume that no amount is reallocated from the Compensation Add-on towards the per-share compensation.

31. In line with this, **Table 4** reflects the effects of reallocating the Compensation Cap surplus by showing incremental reallocation to Buyers and to Holders in columns 6 and 7 respectively.

Blended Take-Up Rate	Non-Active Take-Up Rate	Settlement Compensation after Buyer and Holder surplus reallocation (EUR, Millions) [From Table 3]		Total Settlement Compensation after Buyer and Holder surplus reallocation (EUR, Millions)	Remaining Compensation Amount to be reallocated to Buyers ^[2] (EUR, Millions)	Remaining Compensation Amount to be reallocated to Holders ^[2] (EUR, Millions)	Final Settlement Compensation after Compensation Cap surplus reallocation (EUR, Millions)	
		Buyers	Holders				Buyers	Holders
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
TTM Scenario 1 - Traders Hold 10% of Total Float and 80% of Daily Volume								
35%	15%	€360.8	€537.1	€897.9	€72.2	€107.4	€432.9	€644.6
39%	20%	€402.3	€592.0	€994.3	€34.8	€51.2	€437.1	€643.2
43%	25%	€443.8	€636.5	€1,080.3	€0.0	€0.0	€443.8	€636.5
46%	30%	€485.3	€595.0	€1,080.3	€0.0	€0.0	€485.3	€595.0
50%	35%	€507.7	€572.6	€1,080.3	€0.0	€0.0	€507.7	€572.6
TTM Scenario 3: Traders Hold 10% of Total Float and 60% of Daily Volume								
35%	15%	€397.3	€519.5	€916.9	€70.8	€92.6	€468.1	€612.2
39%	20%	€451.0	€568.5	€1,019.5	€26.9	€33.9	€477.9	€602.4
43%	25%	€504.7	€575.6	€1,080.3	€0.0	€0.0	€504.7	€575.6
46%	30%	€507.7	€572.6	€1,080.3	€0.0	€0.0	€507.7	€572.6
50%	35%	€507.7	€572.6	€1,080.3	€0.0	€0.0	€507.7	€572.6
				€1,080.3				
				Per-share Compensation Cap^[1]				

Table 4. Effects of reallocation of amounts Compensation Cap surplus on overall compensation. Notes: [1] Per-share Compensation Cap has been calculated by assuming that the Compensation Add-on reaches its maximum of 76.2 million EUR, which means that a total of EUR 1,080,300,000 is available for the per-share compensation Cap. [2] Remaining Compensation Amount is divided proportionately between Buyers and Holders, but only up to 20% of the Settlement Compensations calculated in Table 3 (columns (7) and (8), respectively).

32. Finally, **Table 5** summarizes our analysis by comparing the estimated settlement with the total compensation after dilution and reallocation, as well as with the economic losses to Buyers. To better help appreciate the impact of dilution and reallocation, columns 7 and 8 show the final compensation to Buyers and Holders as a percentage of the base per-share compensation promised in the New Settlement Agreement; column 9 shows the final compensation to Buyers as a percentage of estimated potential economic losses.

Blended Take-Up Rate	Non-Active Take-Up Rate	Estimated Settlement Compensation (EUR, Millions) [From Table 1]		Final Settlement Compensation after Compensation Cap surplus reallocation (EUR, Millions) [From Table 4]		Final Compensation to Buyers (% of Proposed Settlement Compensation)	Final Compensation to Holders (% of Proposed Settlement Compensation)	Final Compensation to Buyers (% of Potential Economic Loss for Buyers)
		Buyer	Holder	Buyers	Holders			
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
TTM Scenario 1 - Traders Hold 10% of Total Float and 80% of Daily Volume								
35%	15%	€360.8	€537.1	€432.9	€644.6	120%	120%	207%
39%	20%	€402.3	€592.0	€437.1	€643.2	109%	109%	187%
43%	25%	€443.8	€646.9	€443.8	€636.5	100%	98%	172%
46%	30%	€485.3	€701.7	€485.3	€595.0	100%	85%	172%
50%	35%	€526.7	€756.6	€507.7	€572.6	96%	76%	166%
TTM Scenario 3: Traders Hold 10% of Total Float and 60% of Daily Volume								
35%	15%	€397.3	€519.5	€468.1	€612.2	118%	118%	179%
39%	20%	€451.0	€568.5	€477.9	€602.4	106%	106%	161%
43%	25%	€504.7	€617.6	€504.7	€575.6	100%	93%	152%
46%	30%	€558.3	€666.6	€507.7	€572.6	91%	86%	138%
50%	35%	€612.0	€715.6	€507.7	€572.6	83%	80%	126%

Table 5. Comparison of Estimated Settlement Compensation and Final Settlement Compensation after dilution and reallocation.

33. There are two conclusions to be drawn from this table. First, as column 9 shows, the risk of not adequately compensating Buyers for the economic losses is almost non-existent. Second, as columns 7 and 8 show, there is a limited risk of dilution in case of high take-up rate by Non-Active Claimants (keeping in mind that the compensation will still exceed the economic loss of Buyers at those elevated take-up rates). Both conclusions hold even without applying any settlement discount.¹⁹
34. **Figure 1** shows the adequacy of the overall compensation offered to Buyers. It shows the evolution of the final compensation to Buyers in percent of the proposed settlement compensation over a very wide range of possible take up rates. It also shows the evolution of the final compensation to Buyers in percent of the potential economic losses over the same wide range of possible take up rates. Dilution – i.e. the risk that the final compensation will be lower than the proposed settlement value - starts at a take-up rate of about 50%.
35. **Figure 1** below shows that the potential economic losses of Buyers would not be covered up to 100% only in the very unlikely event that the take-up rate reaches almost 80%. Again, even in the

¹⁹ May 2016 Report, Section VI.

very unlikely event that every Buyer claims, the final compensation received by Buyers would represent more than 80% of their potential economic losses.

36. Finally, even in the extremely unlikely event that every Buyer claims, the final compensation received by Buyers would remain significantly above both the mean and median compensation for similar settlement we computed in our May 2016 report.²⁰

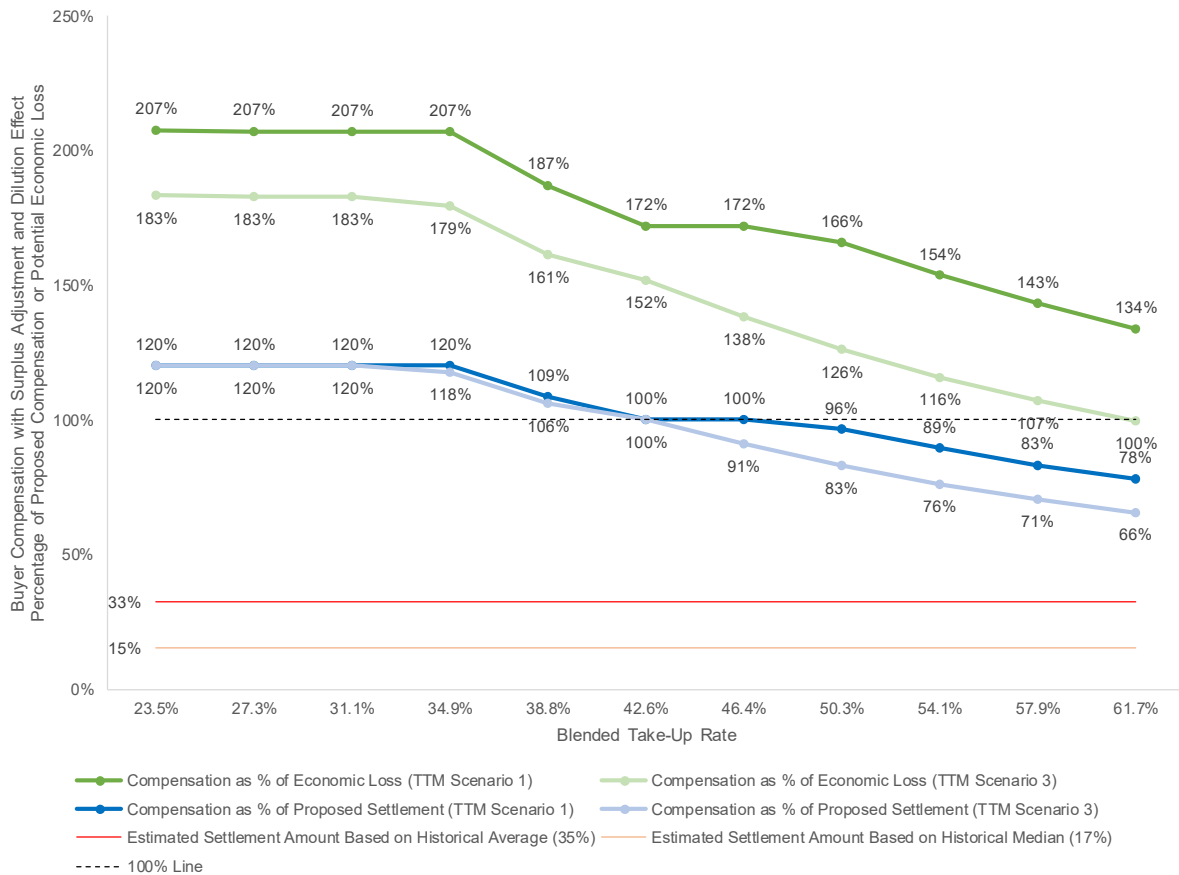


Figure 1. Buyer Compensation Accounting for Surplus Adjustment and Dilution Effect as a Percentage of Proposed Compensation in the New Settlement Agreement and of the Estimated Potential Economic Losses.

²⁰ May 2016 Report, Table 8. Numbers in Figure 1 have been adjusted to reflect the increased total compensation in the New Settlement Agreement.

5 ASSESSING THE “COST ADDITION” FOR ACTIVE CLAIMANTS

5.1 Introduction

37. In this section, we assess the economic reasonableness of the Cost Addition offered to Active Claimants. As per paragraph 4.1 of the Settlement Distribution Plan, Active Claimants will be offered an additional amount equal to up to 25% of the per-share compensation they receive, for a maximum aggregate amount of 152 million EUR. Also, the claimants’ organizations receive a total award of 45 million EUR. We assess whether the overall compensation of Active Claimants and claimants’ organizations is adequate also in light of the cost and the risks taken by Active Claimants to bring this settlement forward.
38. First, we note that the Cost Addition compensation is limited. For example, under the terms of the New Settlement Agreement, a claimant who held a share through all three Periods would be entitled to a Cost Addition of 0.22 EUR (25% of the sum of 0.23 EUR as Holder 1, 0.51 EUR as Holder 2, and 0.15 EUR as Holder 3). Second, we observe that the academic literature generally compares fee awards granted by judges to total settlement amounts (or litigated outcomes). Fee awards are the monetary amounts set aside to cover attorney fees and other litigation costs and deducted from settlement amounts. In order to remain consistent with the academic literature the total amount of 197 million EUR (Cost Addition of 152 million EUR plus compensation of claimants’ organizations of 45 million EUR) should therefore be compared to the aggregate amount to be paid by Ageas in compensation and fees, that is, approximately 1,353 million EUR. The fee award under the New Settlement Agreement is thus 14.6% in total.²¹
39. In the next section, we review the existing literature on fee awards and the anecdotal evidence at our disposal on the share of proceeds that goes to Third Party Litigation Funders, and show that a fee award of 14.6% is reasonable in the context of the New Settlement Agreement.

5.2 Empirical Evidence

5.2.1 Empirical US evidence

40. We conducted a detailed literature review on the topic of litigation costs and fee awards and identified several published articles that provide empirical evidence on attorney’s fees in the

²¹ The 1,353 million EUR correspond to 1,308 million EUR awarded to claimants plus the 45 million EUR awarded to claimant organizations.

United States. **Table 6** presents a summary of the fee awards granted by US courts as a percentage of settlement amounts included in the studies that we reviewed.

Article	Publication Month and Year	Data	Attorney Fees as percentage of Settlement			
			Mean		Median	
			Securities & Non-securities	Securities only	Securities & Non-securities	Securities only
Eisenberg & Miller	June 2010	Total sample of 689 federal and state common fund cases between 1993 and 2008.	23%	23%	24%	25%
Fitzpatrick	December 2010	444 federal class action settlement from 2006-2007, where district courts used the percentage method (either on its own or in combination with the lodestar cross-check).	25.4%	24.7%	25%	25%
Perino ²²	June 2012	Sample of 731 settlements in federal securities class actions settled from 1991 through 2007	-	26.6%	-	-
Baker, Perino and Silver	October 2015	Sample of 431 securities class action settlements announced between 2007 and 2012	-	24.6%	-	25%
Eisenberg, Miller and Germano	October 2017	Sample of 458 federal and state class action cases between 2009 and 2013.	27%	23%	29%	25%

Table 6. Attorney Fees as a percentage of Settlement Amount reported in four different articles on the topic of litigation costs in the United States. Sources: Eisenberg T., and Miller G. “Attorney Fees and Expenses in Class Action Settlements: 1993-2008”, *Journal of Empirical Legal Studies*, Vol. 7, Issue 2, p. 248-281, June 2010; Fitzpatrick B. “Class Action Settlements and Fee Awards”, *Journal of Empirical Legal Studies*, Vol. 7, Issue 4, p. 811-846, December 2010; Perino M. “Institutional Activism through Litigation: An Empirical Analysis of Public Pension Fund Participation in Securities Class Actions”, *Journal of Empirical Legal Studies*, Vol. 9, Issue 2, pp. 368-392, June 2012. Baker L., Perino M. and Silver C. “Is the Price Right? An Empirical Study of Fee-Setting in Securities Class Actions”, *Columbia Law Review*, Vol. 115, No. 6, pp. 1371-1452, October 2015. Eisenberg T., Miller G. and Germano R., “Attorney’s Fees in Class Actions: 2009-2013”, *New York University Law Review*, Vol. 92, pp. 937-970, October 2017.

²² This article assesses an economic aspect of US class actions that is not transposable in European legal systems. More specifically, Perino shows that when a pension fund is the lead plaintiff in a class action lawsuit, fee awards are comparatively lower.

41. As **Table 6** shows, mean fee awards as a percentage of the settlement are within a range of 23 to 27% (and median fees within a range of 24% to 29%). All studies show variability depending on the nature of the cases (e.g. securities class actions vs. antitrust lawsuits), depending on the location of the court (i.e. circuit) or even the political inclination of the judge (Republican vs. Democrat).²³
42. Nonetheless, what these numbers hide is that fee awards as a percentage of settlement amounts decrease as the settlement amounts increase. This phenomenon, known as the scaling effect, is a consequence of litigation expenses not increasing at the same pace as settlement amounts. It is often considered as “*central to justifying aggregate litigation such as class actions.*”²⁴ Consistent with this Eisenberg and Miller find that, for settlement amounts under 1 million USD, on average 37.9% of the settlement amounts are granted as fee awards, compared to 12.0% for settlement amounts above 175.5 million USD.²⁵ Observing this expected outcome, Eisenberg and Miller conclude that the “*aggregation of claims thus appears to have produced the kind of efficiency hoped for.*”²⁶ Similarly, Fitzpatrick finds that in a sample of the largest class action settlements reached in 2006 and 2007, fee awards have a mean of 18.4% for settlements above 72.5 million USD, but that this mean decreases from 23.7% for settlement amounts between 72.5 and 100 million USD to 13.7% for settlement amounts between 1,000 and 6,600 million USD.²⁷ Baker, Perino and Silver reach similar conclusions, but they also note that the scaling effect is a feature of the judicial districts in which many securities class actions are filed.²⁸ By contrast, in their sample of securities class actions, the fee awards granted in judicial districts where only few securities class actions are filed exhibit no scaling effect.
43. As to the variability of fee awards, Eisenberg and Miller report a standard deviation of 7.9% for the largest settlement amounts in their sample (above 175.5 million USD). Similarly, Fitzpatrick

²³ Fitzpatrick B. “Class Action Settlements and Fee Awards”, *Journal of Empirical Legal Studies*, Vol. 7, Issue 4, p. 811-846, December 2010.

²⁴ Eisenberg T., and Miller G. “Attorney Fees and Expenses in Class Action Settlements: 1993-2008”, *Journal of Empirical Legal Studies*, Vol. 7, Issue 2, p. 263, June 2010.

²⁵ *Ibid.*, p. 265.

²⁶ *Ibid.*, p. 279.

²⁷ Fitzpatrick B. “Class Action Settlements and Fee Awards”, *Journal of Empirical Legal Studies*, Vol. 7, Issue 4, p. 839, December 2010. Note that sample size for these very large awards become very small and hence the estimated means are inherently measured with a large statistical imprecision.

²⁸ Baker L., Perino M. and Silver C. “Is the Price Right? An Empirical Study of Fee-Setting in Securities Class Actions”, *Columbia Law Review*, Vol. 115, No. 6, p. 1418, October 2015.

find a standard deviation of 7.9% for settlements between 72.5 and 6,600 million USD. Assuming that settlements are normally distributed within each range, this means that 68% of the fee awards are between 4.1% to 19.9% of the settlement amounts in the subsample of largest settlements of Eisenberg and Miller, and between 10.5% and 26.3% in that of Fitzpatrick.

44. A significant part of this variability must be ascribed to the riskiness of litigation²⁹, and, more specifically, to judges granting larger awards in higher risk litigation. Eisenberg and Miller find that, in general, high risk litigation leads to fee awards that are 3% higher than low or medium risk litigation (26.1% instead of 23.1%).³⁰ In securities class actions, the difference is even higher, at 3.7% (26.4% instead of 22.7%).³¹ Eisenberg, Miller and Germano continue to find a statistically significant difference in settlements between 2009 and 2013³².

5.2.2 Anecdotal evidence from non-US jurisdictions

45. **Table 7** reports proceeds required by Third Party Litigation Funders in Europe and Australia as a percentage of settlement amounts or court awards. Since these third parties are financial investors, the percentages must be read as the financial return required considering the risk borne by investors, that is taking into account the fact that litigation may or may not lead to monetary awards and that they bear all litigation costs.
46. Although they should be considered as anecdotal, the percentages often range well above those reported in US settlements: they sometimes reach 50% or more. They are consistent with the percentages reported above provided that one remembers that professional investors must remunerate capital commensurately to the risk they take. Indeed, Third Party Litigation Funders make a profit only if the fee award exceed the fees they have to pay to the lawyers involved in the case. Veljanovski notes that “*this suggests a fairly high return, but the return must also cover the losses of claims that fail.*”³³ He elaborates further that “*fees generated on the successful actions*

²⁹ Eisenberg and Miller recorded litigation as being “high risk” when they found evidence that “*the court affirmatively indicated the existence of substantial risk, or if exceptional risk was evident from the facts or procedural history of the case*”. For a discussion of the perceived riskiness of a litigation and the factors influencing it, see Eisenberg T., and Miller G. “Attorney Fees and Expenses in Class Action Settlements: 1993-2008”, *Journal of Empirical Legal Studies*, Vol. 7, Issue 2, p. 252, June 2010.

³⁰ *Ibid.*, p. 265. These numbers are computed using the entire range of awards.

³¹ *Ibid.*, Table 8.

³² Eisenberg T., Miller G. and Germano R. “Attorney’s Fees in Class Actions: 2009-2013”, *New York University Law Review*, Vol. 92, pp. 937-970, October 2017.

³³ Veljanovski C. “Third-party Litigation Funding in Europe”, *Journal of Law, Economics and Policy*, Volume 8, Number 3, pp. 425, Spring 2012.

must cover the investment on those claims that have been lost across TPLF investors' portfolio of cases", and therefore that diversification in a portfolio of lawsuits is what matters to Third Party Litigation Funders, although "a few failures can wipe out the net returns."

Article	Case study / Country	TPF proceeds as percentage of Settlement
Tzankova (2011)	Netherlands	Between 33%-66% of the proceeds (after reimbursement of costs). [See page 22]
Veljanovski (2012)	UK	20-40% , but can be 50% or higher [See page 424]
	Austria, Germany, Irelands, Netherlands	20-40% [See page 424]
	Australia	30-60% [See page 424] 20-45% [See page 435]
Hodges, Peysner, Nurse (2012)	Australia	20-40% [See page 121]
	Austria, Germany, Ireland, the Netherlands	25-40% [See page 121] CFI (Claims Funding International) in Ireland commissions 25-35% . [See page 60]
	Poland	Contingency fees are permitted only in collective actions, but are limited to 20% . [See page 121]
	UK	The Jackson Review recommends that no success fee deducted from damages should exceed 25% of the damages. [See page 121] UK commercial funders aim for 30% of the sum recovered, apparently typically achieving within a range of 20-40% . [See page 122]

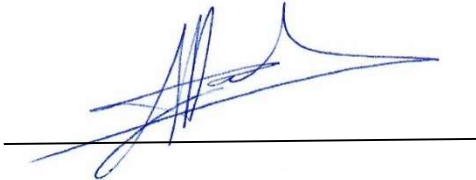
Table 7. Third Party Funding proceeds as a percentage of Settlement Amount reported in various articles on Third Party Litigation Funding in Europe. Sources: Veljanovski C. "Third-party Litigation Funding in Europe", *Journal of Law, Economics and Policy*, Volume 8, Number 3, pp. 405-449, Spring 2012; Tzankova I. "Costs and funding of Mass Disputes: Case Study – the Netherlands", *Searle Civil Justice Institute, Public Policy Conference, 2011*; Hodges C., Peysner J. and Nurse A. "Litigation Funding: Status and Issues", *Research Report, Lincoln Law School and Center for Socio-Legal Studies, Oxford, January 2012*.

5.3 Conclusion

47. The Cost Addition and organisation fees combined amount to 197 million EUR and represent 14.6% of the maximum amount of approximately 1,353 million EUR payable in compensation and fees.
48. This amount is clearly within the range of fee awards granted by judges in the United States for comparable lawsuits.
49. Importantly, such fee awards often substantially exceed the costs incurred by plaintiffs to bring claims and reach settlements. In particular, they are significantly larger (3% in general and 3.7% in securities lawsuits, according to Eisenberg and Miller³⁴) when litigation risk is high, consistent with courts recognizing the crucial role played by lawyers, acting as professional agents of claimants to bring a settlement in such cases.
50. Anecdotal European evidence shows that in cases of litigations funded by Third Party Litigation Funders in Europe and Australia, the share of proceeds that goes to Third Party Litigation Funders tends to be even higher than the fee awards observed in the United States. There is a simple reason for that: being financial investors, Third Party Litigation Funders require a return after paying all litigation costs and taking into account that some of the lawsuits that they fund fail.
51. Although it is a subjective judgment, we consider that the Fortis shareholder lawsuits probably fall in the category of high risk litigation for plaintiffs, since there were few precedents in Europe and the history of judgments rendered in various jurisdictions suggest a probability for shareholders to prevail of less than 50%.
52. Under this light, the aggregate 14.6% fee award requested by claimants and the organizations that represent them is perfectly reasonable.

³⁴ Eisenberg T., and Miller G. P. “Attorney Fees and Expenses in Class Action Settlements: 1993-2008”, *Journal of Empirical Legal Studies*, Vol. 7, Issue 2, p. 265, June 2010.

Executed on 12 December 2017

A handwritten signature in blue ink is written over a solid horizontal line. The signature is stylized and appears to be 'M. Van Audenrode'.

Marc Van Audenrode, Ph.D.

APPENDIX A: Curriculum Vitae of Marc Van Audenrode

MARC VAN AUDENRODE, PH.D.
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Dr. Van Audenrode is an expert in data analysis and econometrics, labor economics, antitrust and competition policy, and public economics. He has consulted to clients – including law firms and government agencies – in Canada, the United States, and Europe. Dr. Van Audenrode’s work includes developing a methodology to value desktop software; he also developed expertise valuing goods as varied as restaurant franchises, executive stock options, or smartphone features. His recent work in public economics includes evaluating the economic rent from hydro-electricity to the Canadian economy and the value of logging rights on the ancestral territory of a Canadian First Nation. His labor economics work includes an expert report assessing fair compensation for Québec provincial judges and Québec prosecutors, and advising Québec’s commission on pay equity. Dr. Van Audenrode has filed expert reports in courts in the United States, Canada, Belgium, Germany, France, and the Netherlands, and has testified in Canada and the United States. He recently filed a report with the Amsterdam Court in support of the settlement reached between Ageas and claimant organizations in the so-called Fortis case, the largest settlement ever reached through the Dutch WCAM. Dr. Van Audenrode’s scientific research and articles have been published in numerous peer-reviewed academic journals and trade journals. He is a coauthor of the book, *The Mutual Fund Industry: Competition and Investor Welfare*, and is a frequent presenter at industry and academic conferences.

LANGUAGES

French (Native), English (Fluent), Spanish (Knowledge), and Dutch (Knowledge)

EDUCATION

- | | |
|------|---|
| 1991 | Ph.D., economics, University of California, Berkeley
<i>Areas of specialization: labor, industrial relations, econometrics</i> |
| 1988 | M.A., economics, University of California, Los Angeles |
| 1984 | Licencié et Maître en sciences économiques, Université Catholique de Louvain, Belgique |
| 1983 | Candidat en droit, Université Catholique de Louvain, Belgique |

PROFESSIONAL EXPERIENCE

- | | |
|--------------|--|
| 2003–Present | Analysis Group, Inc. (Groupe d’analyse)
<i>Managing Principal (2007–Present)</i>
<i>Vice President (2003–2006)</i> |
| 2005–Present | Université de Sherbrooke
<i>Professeur associé, Département d’économique</i> |
| 1995–2005 | Université Laval
<i>Professeur titulaire, Département d’économique (1998–2005)</i>
<i>Directeur, Département d’économique, (1998–2002)</i>
<i>Professeur agrégé, Département d’économique (1995–1998)</i> |
| 1991–1995 | Université du Québec à Montréal
<i>Professeur adjoint, Département des sciences économiques</i> |

1988–1991 University of California, Berkeley
Research Assistant, Institute of Industrial Relations (1989–1991)
Teaching Assistant, Department of Economics (1988–1990)

1986 Banque Nationale de Belgique
Economist, Research Department

1984–1985 Facultés Universitaires Catholiques de Mons, Belgium
Teaching Assistant, Département des sciences économiques

SELECTED EXPERT CASEWORK

Odyssey Wireless Inc. v. Samsung Electronics CO, LTD et al.

U.S. District Court, Southern District of California

Wrote a report and was deposed.

Odyssey Wireless Inc. v. Motorola Mobility LLC

U.S. District Court, Southern District of California

Wrote a report and was deposed.

Gerechtshof Amsterdam

In re. Fortis Litigations WCAM Article 7:907 proceedings

Wrote a report in support of the settlement agreement reached by the parties in several Fortis lawsuits.

Patinvest v. Ageas SA/NV

Tribunal de Commerce de Bruxelles

Wrote a report on allegations of shareholders misinformation.

DRS Belgium SCRL v. Ageas SA/NV, Merrill Lynch International PUC, and BNP Paribas Fortis SA

Tribunal de Commerce de Bruxelles

Wrote a report on allegations of shareholders misinformation.

Québec Construction Industry Arbitration

Association de la construction du Québec v Syndicats de la construction

Wrote a report and testified in a matter involving pay rates on overtime hours.

Comité de la rémunération des procureurs du Québec

Association des procureurs du Québec v. Secrétariat du conseil du trésor du Québec

Wrote a report and testified in a matter involving salaries of Québec's prosecutors.

In re: Application by Toronto Hydro-Electric System Limited for an order pursuant to section 29 of the Ontario Energy Board Act, 1998

Ontario Energy Board

Wrote a report and testified in a matter involving competition in the market for wireless antenna attachments.

Fairview Donut Inc., et al. v. The TDL Group, Tim Hortons

Ontario Superior Court

Supported Professor Roger Ware in a matter involving alleged price fixing and anticompetitive behavior by Tim Horton's.

In re: Whirlpool Corp. Front-Loading Washer Products Liability Litigation

U.S. District Court, Northern District of Ohio

Filed an expert report and provided testimony in a dispute involving a consumer class action related to front-loading washing machines.

Denver Employees Retirement Plan v. JPMorgan Chase Bank N.A.

Supreme Court of the State of New York

Filed an expert report and provided expert testimony in a dispute involving the management of a collateral investment pool.

Edwin L. Reso et al. v. Artisan Partners Limited Partnership

U.S. District Court, Eastern District of Wisconsin

Filed an expert report and provided testimony in a dispute involving fees charged to mutual fund investors.

Saskatchewan Federation of Labour et al v. Her Majesty the Queen

Queen's Bench for Saskatchewan

Filed an expert report on the impact of the changes in Saskatchewan union certification laws on the success of union certification.

Volvo Canada v. Travailleurs Canadiens de l'automobile

Contract Dispute Arbitration

Filed an expert report and provided testimony before an arbitrator on the nature of the financial crises of 2008.

Association des pompiers de Montréal v. Service de sécurité incendie de Montréal

Québec Commission des lésions professionnelles

Filed an expert report and provided testimony to evaluate a statistical study presented by the Montréal Firefighter Union linking firefighter's safety and the nature of their equipment.

Advanced Micro Devices, Inc., and AMD International Sales and Service, LTD., v. Intel Corporation and Intel Kabushiki Kaisha

Antitrust Litigation

Supported an academic expert in the analysis of claims of anticompetitive behavior including exclusionary conduct and monopolization.

Confidential Intellectual Property Litigation

In response to a patent infringement suit brought by a German patent holding firm, one of the world's leading providers of mobile phone handsets retained Analysis Group to estimate the value of a selected feature of wireless handsets. The work involved conducting an econometric analysis to determine whether and to what extent consumers value the feature at issue.

Natural Gas Competitive Landscape Review

Manitoba Public Utilities Commission

Filed an expert report and provided testimony on issues related market structure and competition in the natural gas retail market.

Lefèvre Frères Limitée et al. C. Procureur general du Québec, 500-17-025960-058
Cour Supérieure du Québec

Filed an expert report on issues related to unfair competition practices.

Commission de l'équité salariale du Québec

Filed an expert report and provided testimony on issues related the impact of pay equity on the Government of Québec's finances.

Axiom Plastics, Inc. v. E.I. DuPont Canada Company

Ontario Superior Court of Justice

Supported an expert in the analysis of class certification issues related to alleged price-fixing.

Régie des marchés agricoles et alimentaires du Québec

Audition dans le cadre du renouvellement de la convention de mise en marché du porc

Filed an expert report and provided testimony on issues related to market structure and incentives in the pork industry.

Goodyear Canada Inc. – Le Syndicat canadien des communications, de l'énergie et du papier – local 143

Filed an expert report and provided testimony in an arbitration proceeding between Goodyear Canada and its union.

Première Nation de Betsiamites et al. C. Le Procureur Général du Canada et al. (500-17-022878-048)

Cour Supérieure du Québec

Filed an expert report on the economic impact of ending logging on the Nation's territory.

Non Participating Manufacturer (NPM) Adjustment Proceeding Under the Tobacco Master Settlement Agreement Between the Settling States and the Participating Manufacturers

Arbitration Proceeding Before Professor Daniel McFadden and the Brattle Group

On behalf of the settling states, supported Professors Robert Pindyck and Jonathan Gruber in an analysis of whether the disadvantages of the 1998 Master Settlement Agreement were a "significant factor" contributing to the market share loss of the participating manufacturers in 2003.

Commission d'enquête sur la société papiers Gaspésia

Filed an expert report and provided testimony on the sources of low productivity on the construction site.

Assemblée Nationale du Québec

Provided testimony to the immigration committee on the value of the immigrant-investor program.

Fédération des producteurs bovins du Québec v. Produits de viande Levinoff No. 270-09-04-01

Régie des marchés agricoles et alimentaires du Québec

Provided testimony on issues related to market definition.

Northland Cranberries v. Ocean Spray Cooperative

U.S. District Court, District of Massachusetts

Supported Professor Robert Pindyck in a case of alleged monopolization of the market for cranberry juice.

Microsoft I-V Cases, J.C.C.P. No 4106

U.S. Superior Court of the State of California for the City and County of San Francisco

Supported Professor Robert Hall in developing a damage model in a case involving alleged non-competitive practices.

Conférence des juges du Québec & al. c. Procureur général du Québec No. 500-05-070351-026 et Morton S. Minc & al. c. Procureur général du Québec No. 500-05-070457-021

Cour Supérieure du Québec

Filed an expert report and provided testimony on issues related to Québec Courts Judges' compensation.

Kellogg Company v. BASF AG, et al.

U.S. District Court, District of Columbia

Supported Professor Robert Pindyck in developing a damage model in an alleged antitrust violation case.

Canada House of Commons

Provided testimony to the House Committee on Finance regarding employment insurance reform issues.

ACADEMIC PUBLICATIONS

“Learning from Social Media for Adverse Event Reporting.” With Mei Sheng Duh, Brian Ellman, Paul Greenberg and Pierre Cremieux. *Law360*, New York (May 23, 2017)

“Calculating Damages in Price-Fixing Cases in the United States, Canada, and the European Union.” With Pierre Cremieux and Marissa Ginn. *Class Actions and Derivative Suits*. American Bar Association Litigation Committee (Spring 2017 Volume 27, Issue 3)

“A Comparison of Damage Theories in Price-Fixing Cases in the United States, Canada, and the European Union.” With Pierre Cremieux and Marissa Ginn. *Class Actions and Derivative Suits*. American Bar Association Litigation Committee (Winter 2017 Volume 27, Issue 2)

“Can Social Media Data Lead to Earlier Detection of Drug-Related Adverse Events?” With Mei Duh, Pierre Cremieux, Francis Vekeman, Paul Karner, Haimin Zhang, and Paul Greenberg. *Pharmacoepidemiology and Drug Safety*, <http://onlinelibrary.wiley.com/wo1/doi/10.1002/pds.4090/full> (2016)

“Antitrust Private Damages Actions in the United States, Canada and the European Union.” With Pierre Cremieux and Marissa Ginn. *CPI Antitrust Chronicle* (June 2016 Vol. 3)

“Economic Impact of the Mirebalais National Teaching Hospital on the Haitian Economy.” With M-A Pantal, P. Faure, J-G Jerome, J-C Mugunga, M. Von Wartburg, and P-Y Cremieux. *Journal of Eastern Caribbean Studies* (December 2015 Volume 40, No. 3)

“Canada’s Proposed Legislation to Prohibit Cross-Border Price Differentials.” With Marissa Ginn. *CPI Antitrust Chronicle* (March 2014 Vol. 2)

- “An Economic Perspective on the Recent Indirect Purchaser Rulings by the Supreme Court of Canada.” With Marissa Ginn. *Canadian Competition Law Review* 27, no. 1 (2014): 232-244
- “Is backdating executive stock options always harmful to shareholders?” With Philippe Grégoire, Glenn Hubbard, Mike Koehn, and Jimmy Royer. *Accounting and Finance* 53, no. 3 (September 2013): 667–689
- “Avec l'accès à un médecin de famille: une hausse significative de l'espérance de vie en bonne santé.” With Pierre Fortin, Luc Godbout, and Philip Merrigan. In *Le Québec économique 2011*, edited by Luc Godbout, Marcelin Joanis, and Nathalie de Marcellis-Warin. Québec: Presses de l'Université Laval (2012)
- The Mutual Fund Industry: Competition and Investor Welfare*. With Glenn Hubbard, Mike Koehn, Stan Ornstein, and Jimmy Royer. New York: Columbia Business School Publishing (April 2010)
- “The Impact of Drug Vintage on Patient Survival: A Patient-Level Analysis Using Québec's Provincial Health Plan Data.” With Frank Lichtenberg, Paul Grootendorst, Dominic Latremouille-Viau, and Patrick Lefebvre. *Value in Health* 12, no. 6 (September 2009): 847–856
- “Les besoins (quasi) illimités des familles.” In *Le Québec, un paradis pour les Familles?* Edited by Luc Godbout and Suzie St-Cerny. Québec: Presses de l'Université Laval (2008)
- “The Relative Dosing of Epoetin Alfa and Darbepoetin Alfa in Chronic Kidney Disease.” With Pierre-Yves Cremieux and Patrick Lefebvre. *Current Medical Research and Opinion* 22, no. 12 (December 2006): 2329–36
- “Border Regulations and Migratory Flows.” *Social and Labour Market Aspects of North American Linkages*, edited by Richard G. Harris and Thomas Lemieux. Calgary, AB: University of Calgary Press (2005)
- “Where Does the Canadian Debt Come From? A Comment.” *Is the Debt War Over? Dispatches from Canada's Fiscal Frontline*, edited by Chris Ragan and Bill Watson. Montréal: Institute for Research on Public Policy / McGill-Queen's University Press (2004)
- “Sous-traitance, emploi et salaires.” With Pierre Fortin. *Gestion* 29, no. 2 (2004): 33–38
- “Re: Double-Blind, Placebo-Controlled, Randomized Phase II Trial of Darbepoetin Alfa in Lung Cancer Patients Receiving Chemotherapy.” *Journal of the National Cancer Institute*, 95(10):761–762 (May 2003)
- “Les perspectives à moyen terme du marché du travail au Québec.” *L'Actualité économique*. 78(4) (December 2002)
- “Employment Protection and the Consequences for Displaced Workers.” With Karsten Albæk and Martin Browning. In *Losing Work, Moving On: International Perspectives on Worker Displacement*, edited by Peter Kuhn. Kalamazoo, MI: W.E. Upjohn Institute for Employment Research (2002)
- “Trade and the Economics of Winners and Losers.” *Acts of the 1998 Seminar on Incomes and Productivity in North America*. Dallas, TX: Commission for Labor Cooperation (1999)
- Introduction à la micro-économie moderne*. With Michael Parkin and Robin Bade. Montréal: Éditions du Renouveau Pédagogique (1999)
- “Compensations Policies and Firm Productivity.” With Jonathan Leonard and Benoit Mulkay. *The Creation and Analysis of Matched Employer-Employee Data*, edited by J. Haltiwanger, J.R. Spletzer and J. Theeuwes. Bingley, UK: Emerald Group Publishing Limited, (1999)
- “Exploring the Links Between Wage Inequality and Unemployment: A Comparison of Canada and the US.” With Paul Storer. *Canadian Public Policy* 24 (February 1998): 233–253
- “A Partial Defence of Job-Security Provisions.” *World Economic Affairs* 1, no. 3 (Spring 1997): 19–22
- “Optimal Contract, Imperfect Output Observation and Limited Liability.” With Jacques Lawarrée. *Journal of Economic Theory* 71, no. 2 (1996): 514–531
- “Rent Sharing in the Airline Industry: Evidence from Mergers and Acquisitions.” With Pierre-Yves Crémieux. *Labour* 10, no. 2 (1996): 297–318
- “Is the US/Canada Unemployment Gap Truly Large? A Labor Flow Analysis.” With Pierre-Yves Crémieux. In *Flow Analysis of Labor Markets*, edited by Ronald Schettkat, 115–131. New York: Routledge, (1996)

- “Worker’s Limited Liability, Turnover, and Employment Contracts.” With Jonathan Leonard. *Annales d’économie et de statistique*, no. 41/42 (1996): 41–77
- “Some Myths about Monetary Policy.” *Unnecessary Debts*, edited by Lars Osberg and Pierre Fortin. Toronto: Lorimer (1996); reprinted in *Hard Money, Hard Times*, edited by Lars Osberg and Pierre Fortin. Toronto: Lorimer (1998)
- “Unemployment Insurance Take-up Rates in Canada: Facts, Determinants and Implications.” With Paul Storer. *Canadian Journal of Economics* 28, no. 4a (November 1995): 822–835
- “Job Displacement, Wages and Unemployment Duration in Canada.” With Mario Houle. *Labour Economics* 2, no. 1 (March 1995): 77–92
- “Perspectives de réinsertion professionnelle des travailleurs déplacés peu éduqués.” With Paul Storer. *Intégration à l’emploi des personnes défavorisées : Stratégies d’aide*, 205–220. Sainte-Foy, QC: Les Publications du Québec (1995)
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- “Politiques industrielles et dynamique du marché du travail en Belgique.” With Jonathan Leonard. *Reflets et perspectives de la vie économique* 33 (February 1994): 73–86
- “Corporatism Run Amok: Job Stability and Industrial Policy in Belgium and the United States.” With Jonathan Leonard. *Economic Policy* 17 (October 1993): 355–400. Reprinted in *Industrial Policy and Competitive Advantage*, edited by David B. Audretsch. London: Edward Elgar, (1997)
- “Création et destruction d’emplois et chômage: Le cas belge.” With Benoît Mulkay. *Economie et prévisions* 108, no. 2 (1993): 19–30
- “Cost Observation, Auditing, and Limited Liability.” With Jacques Lawarrée. *Economics Letters* 39 (August 1992): 419–423
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- “Use of Economic Surveys in Forecasting.” With M.A. Benito-Alonso and Benoit Hallet. *Proceedings of International Conference on System Science and Engineering*, edited by Cheng Weimin. Sonning Common, UK: International Academic Publishers (1988)
- “Arbitration Models for Solving Multi Objective Optimization.” With M.A. Benito-Alonso and F. Condis. *Lecture Notes in Mathematical Economics* 285 (1987)

RESEARCH REPORTS AND OTHER PUBLICATIONS

- “Employment Insurance Eligibility and International Comparisons.” With Natalia Mishagina and Jimmy Royer. Report presented to Human Resources and Skills Development Canada (March 2010)
- “Les lunettes roses.” *La Presse* (January 10, 2009)
- “Le taux de chômage des immigrants : c’est pire au Québec.” With Pierre Fortin. *La Presse* (June 22, 2008)
- “Adapting Competition Policy to a Global Economic Environment.” With Jimmy Royer, Lisa Pinheiro and Anne Catherine Faye. Report presented to *Industry Canada* (2008)
- “Vers une monnaie commune ?” With Pierre Fortin. *La Presse* (November 2007)
- “Des immigrants en or.” With Pierre Fortin and Pierre Emmanuel Paradis. *La Presse* (September 2007)
- “Determinants of Incidence and Duration of Unemployment Spells Among Older Workers.” With Pierre Fortin and Jimmy Royer. Report presented to Human Resources and Skills Development Canada (2007)

“Analyse économique de l'étalement des ajustements salariaux à effectuer pour réaliser l'équité salariale dans le secteur public du Québec.” With Pierre Fortin. Report presented to the Commission de l'équité salariale du Québec (October 2006)

“Convention de mise en marché des porcs : une structure plus libre et des prix plus justes pour une industrie plus prospère.” With Pierre Fortin. Report presented to the Régie des marchés agricoles et alimentaires du Québec (August 2006)

“L'industrie du sirop d'érable est en détresse.” With Pierre Fortin. *Les Affaires* (April 2006)

“Les entreprises adaptées du Québec : une aubaine économique et sociale pour le Québec, ” With Pierre Fortin. Report presented to the Conseil québécois des entreprises adaptées (February 2006)

“Les surplus de sirop d'érable, le contingentement de la production et le dommage causé aux producteurs transformateurs.” With Pierre Fortin. Report presented to the Association des érablières-transformateurs des produits de l'érable (September 2005)

“Le conflit de l'OSM : comme celui de la LNH.” With Pierre Fortin. *Le Devoir* (August 27, 2005)

“Employment Insurance in Canada and International Comparisons.” With Andrée-Anee Fournier, Nathalie Havet, and Jimmy Royer. Report presented to Human Resources and Skills Development Canada (June 2005)

“Papiers Gaspésia : Il faut remettre aux entrepreneurs floués les 40 millions qu'on leur doit” With Pierre Fortin. *Le Devoir* (June 22, 2005)

“Plus jamais.” With Pierre Fortin. *La Presse* (May 2005)

“Les dépassements de coûts directs de main d'œuvre sur le chantier de la Gaspésia.” With Pierre Fortin and Erick Moyneur. Report presented to the Commission d'enquête sur les dépassements de coûts à la société papiers Gaspésia (February 2005)

“Faire face à la nouvelle réalité du commerce de détail.” With Pierre Fortin. *Le Devoir* (December 13, 2004)

“La sympathie achève.” With Pierre Fortin. *La Presse* (December 2004)

“Des solutions pour payer la dette.” With Pierre Fortin. *L'actualité* (October 2004)

“Employment Insurance in Canada and International Comparisons.” With Jimmy Royer, Andrée-Anne Fournier and Nathalie Havet. Report presented to Human Resources and Skills Development Canada (2004)

“Les cégeps : économiques, performants et équitables.” With Pierre Fortin and Nathalie Havet. *La Presse* (May 2004)

“L'apport des Cégeps à la société québécoise.” With Pierre Fortin. Report presented to the Fédération des cégeps du Québec (April 2004)

“Que faire quand on est moins riche, qu'on dépense plus, qu'on est plus taxé, qu'on est plus dépendant, qu'on est plus endetté et qu'on vieillit plus vite que les autres?” With Pierre Fortin. Report presented during the Consultations du ministre des finances du Québec sur le budget 2004–2005 (January 2004)

“Le programme des immigrants investisseurs : une solide contribution à l'emploi, régional, à l'industrie financière et aux revenus de l'état” With Pierre Fortin. Report presented to the Commission de la culture de l'Assemblée nationale du Québec (January 2004)

“Haro sur les cégeps.” With Pierre Fortin. *La Presse* (December 2003)

“The Impact of the James Bay Development on the Canadian Economy.” With Pierre Fortin. Report presented to the Grand Counsel of the Cree Nation (July 2003)

“Assessing the Extent of Randomization Bias in the Canadian Self-Sufficiency Demonstration Project.” With Guy Lacroix and Jimmy Royer. Report presented to Social Research and Demonstration Corporation (2003)

“Employment, Income Supplement and Mental Health: A Controlled Experiment.” With Ronald Kessler, Pierre Crémieux, Paul Greenberg, and Phil Merrigan. Report presented to Social Research and Demonstration Corporation (January 2003)

“Estimation des conséquences économiques d’une réduction de la portée de l’article 45 du Code du travail.” With Jimmy Royer and Patrick Lefebvre. Report presented to the Ordre des conseillers en relation de travail du Québec (2001)

“The Determinants of Search Behaviour.” With Pierre Crémieux, Jimmy Royer and Phil Merrigan. Report presented to Social Research and Demonstration Corporation (May 2001)

“Adult Education, Training and Earned Income.” With Pierre-Yves Crémieux and Jimmy Royer. Report presented to Human Resources and Skills Development Canada (2001)

“An Assessment of Various Components of C-12 on the Duration of Unemployment Spells.” With Guy Lacroix. Contribution to the program of evaluation of the Canadian employment insurance system. Report presented to Human Resources and Skills Development Canada (2001)

“The Impact of Workers’ Experience Rating on Unemployed Workers.” With Pierre Fortin. Contribution to the program of evaluation of the Canadian employment insurance system. Report presented to Human Resources and Skills Development Canada (2001)

“The Impact of Bill C-17 on Benefit Eligibility, Take Up of Benefits and the Financial Liability of the UI Account” With Paul Storer. Contribution to the program of evaluation of the Canadian unemployment insurance system. Report presented to Human Resources and Skills Development Canada (July 1997)

“The Long-Term Employment Outcomes and Bill C-17.” With Paul Storer. Contribution to the program of evaluation of the Canadian unemployment insurance system. Report presented to Human Resources and Skills Development Canada (August 1997)

“The Impact of Unemployment Insurance on Search Intensity, Reservation Wages, Re-employment Probabilities and Post-Displacement Wages.” With Paul Storer, Pierre-Yves Crémieux and Pierre Fortin. Contribution to the program of evaluation of the Canadian unemployment insurance system. Report presented to Human Resources and Skills Development Canada (April 1995)

“L’évolution macro-économique et la question budgétaire au Québec.” With Pierre Fortin and P.Y. Crémieux. Report presented to the Conseil de la Santé et du bien-être du Québec (September 1994)

“The Productivity of UI Job Search.” With Paul Storer, Pierre-Yves Crémieux and Pierre Fortin. Contribution to the program of evaluation of the Canadian unemployment insurance system. Report presented to Employment and Immigration Canada (April 1994)

WORKS IN PROGRESS

“Over-Declaration of Standard Essential Patents and Determinants of Essentiality.” With Jimmy Royer, Robin Stitzing, and Pekka Sääskilähti.

Implementing Tervita (Some Difficulties). With Marissa Ginn and Roger Ware.

“Potential Competition and the Prices of Network Goods: Desktop Software.” With Robert E. Hall and Jimmy Royer.

SELECTED PRESENTATIONS

"Is there a hope for a global resolution in private cartel damages actions?" ABA Global private litigation conference. Amsterdam (May 2017)

“Le dollar, la politique monétaire, et la relance du secteur manufacturier.” Presented at the MEQ-FTQ Conference, Montréal (December 2009)

“Les besoins (quasi) illimités des familles.” Paper presented at the Conference «Québec, un paradis pour les familles ? » Montréal (November 2008)

“Politiques d’intégration des immigrés au marché du travail au Québec.” Paper presented at the ASDEQ Conference, Gatineau, Québec (May 2008)

“Efficiencies in Competition Policy.” Paper presented to the *Competition Review Panel*, Montréal (February 2008)

“Do Mutual Funds Investors Care about Fees?” Paper presented at the Canadian Economics Association (“CEA”) Conference, Halifax (June 2007)

“Les salaires et la productivité au Québec : les 25 prochaines années.” Paper presented at the conférence de la Régie des rentes du Québec sur l’avenir du Québec (October 2006)

“L’impact d’un relâchement des règles limitant la sous-traitance.” Paper presented at the UQAM Economics Department Seminars (May 2005)

“Potential Competition and the Prices of Network Goods: Desktop Software.” Paper presented at the conférence de la société canadienne de sciences économiques, Québec (May 2004)

“Potential Competition and the Prices of Network Goods: Desktop Software.” Paper presented at the International Applied Industrial Organization Conference, Chicago (April 2004)

“Évaluation du bien-fondé d’un relâchement des restrictions aux mouvements des travailleurs entre le Canada et les Etats-Unis.” Paper presented at the Conference on Social and Labour Market Aspects of North American Linkages, Montréal (December 2002)

“Where Does the Canadian Debt Come From? A Comment.” Paper presented at the conference “Is the Debt War Over?” Montréal (November 2002)

“Downward Nominal Wage Rigidities: Evidence from Employer-Employee Data.” Paper presented at the IZA Conference on Wage Rigidities, Bonn (November 2002)

“Asymmetric Information in the Labor Market.” Paper presented at the McGill Economics Department Seminar series (November 2002)

“La monnaie unique Nord Américaine.” Paper presented at the congrès de l’AQUINAQ. Charlevoix, Québec (June 2002)

“Conséquences économiques du vieillissement de la population du Québec.” Presidential address. 42^{ème} conférence de la société canadienne de sciences économiques, Aylmer, Québec (May 2002)

“Downward Nominal Wage Rigidities: Evidence from Employer-Employee Data.” Paper presented at the Conference of the European Central Bank on Wage Rigidities, Frankfurt (November 2001)

“Le marché du travail au Québec à l’horizon 2020.” Paper presented at the workshop organized by the Régie des rentes du Québec, Québec (December 2000)

“Les enjeux économiques de la démographie.” Paper presented at the Colloque Démographie et Famille, organized by the Conseil de la Famille et de l’enfance, Montréal (November 2000)

“Job Protection and Job Losses in Belgium.” Paper presented at the 14^{ème} congrès des économistes belges de langue Française, Liège, Belgium (November 2000)

“Unemployment Insurance Take-Up and Reemployment.” Paper presented at the third CILN conference, Hamilton, Ontario (September 2000)

“Limited Liability and Moral Hazard.” Paper presented at the eight world conference of the Econometrics Society, Seattle, WA (August 2000)

“Unemployment Insurance Take-Up and Reemployment.” Paper presented at the first world meetings of the Society of Labor Economists, Milan (June 2000)

“Unemployment Insurance Take-Up and Reemployment.” With Jean-François Bertrand and Jean-Yves Duclos. Paper presented at the Journées de Microéconomie appliquée, Québec (June 2000)

“Unemployment Insurance Take-Up and Reemployment.” With Jean-François Bertrand and Jean-Yves Duclos. Paper presented at the Canadian Economic Association meetings, Vancouver (June 2000)

“Job Protection laws and Jobs: Evidence from a Natural Experiment.” Paper presented at CEREGMIA, Université des Antilles-Guyane, French West Indies (March 2000)

“L’union monétaire nord-américaine.” Paper presented at Les petits déjeuners de l’ASDEQ Québec (March 2000)

“Wage and Asymmetric Information in the Labor Market.” Paper presented at the CERF-IRPP conference on Canada in the Information Age, Ottawa (March 2000)

“Worker Displacement in Belgium and Denmark.” Paper presented at ECARES, University of Brussels, Belgium (November 1999)

“Evaluation of the Employment Insurance Reform.” Paper presented at the Canadian Economic Association meetings, Toronto (June 1999)

“The North-American Monetary Union.” Paper presented at the Canadian Economic Association meetings, Toronto (June 1999)

“A Difference of Degree: Unemployment Despite Turnover in the Belgian Labor Market.” Paper presented at the conference “Understanding Labor Markets,” Venice, Italy (January 1999)

“Compensations Policies and Firm Productivity.” Paper presented at the North American Winter Meetings of the Econometric Society, New York (January 1999)

“Job Protection laws and Jobs: Evidence from a Natural Experiment.” Paper presented at the second international CILN conference, Hamilton, Ontario (September 1998)

“Job Protection laws and Jobs: Evidence from a Natural Experiment.” Paper presented at the North American Summer Meetings of the Econometric Society, Montréal (June 1998)

“The Impact of Bill C-17 on Benefit Eligibility, Take Up of Benefits and the Financial Liability of the UI Account.” Paper presented at the CERF conference, Ottawa (May 1998)

“Unemployment Insurance Take-Up and Reemployment.” With Jean-François Bertrand and Jean-Yves Duclos. Paper presented at the CERF conference, Ottawa (May 1998)

“Wages and Asymmetric information in the Labor Market.” Paper presented at the Annual Conference of the Society of Labor Economists, San Francisco (May 1998)

“Compensations Policies and Firm Productivity.” Paper presented at the International Conference on Linked Employer Employee Data, Washington, D.C. (May 1998)

“Trade and the Economics of Winners and Losers,” Paper presented at the second conference on income and productivity (Commission for Labor Cooperation), Dallas, TX (February 1998)

“The Dynamics of Wages and Employment.” Paper presented at the North American Meetings of the Econometric Society, Chicago (January 1998)

“Wages and Asymmetric information in the Labor Market.” Paper presented at the European Meeting of the Econometric Society, Toulouse, France (August 1997)

“The Uncertainty of Displacement.” Paper presented at the Canadian Economics Association conference, St John, Newfoundland (June 1997)

“Persistence of Firm and Individual Wage Components.” Paper presented at the North American Econometric Association Meetings, Iowa City (June 1996)

“Exploring the Links Between Wage Inequality and Unemployment: A Comparison of Canada and the US.” Paper presented at the CSLS/CERF conference on the Canada/US Unemployment Rate Gap, Ottawa (February 1996)

“Persistence of Firm and Individual Wage Components.” Paper presented at the American Economic Association Meetings, San Francisco (January 1996)

“A Difference of Degree: Unemployment Despite Turnover in the Belgian Labor Market.” Presented at the International Workshop on Employment Security and Employment Protection, McMaster University (November 1995)

“Optimal Contract, Imperfect Output Observation and Limited Liability.” Paper presented at the World Congress of the Econometric Society, Tokyo (August 1995)

“UI, Recall Biases, Spikes, and the Wake-up Call Theory.” Paper presented at the CIRANO Workshop, Montréal (July 1995)

“The Exit and Entry of Firms and Worker Turnover.” Paper presented at the Conference on Labor Market Imperfections in Europe, Berlin (June 1995)

“UI, Recall Biases, Spikes, and the Wake-up Call Theory.” Paper presented at the congrès de l’association canadienne d’économique, Montréal (June 1995)

“Is The U.S./Canada Unemployment Gap Truly Large? A Labor Flow Analysis.” Paper presented at the Congrès de la société canadienne de sciences économiques, Québec (May 1995)

“The Duration of Unemployment and the Persistence of Wages.” Paper presented at the Conference on Imperfections in the European Labor Markets, Madrid (February 1995)

“Turnover and Efficiency Wage Theory.” Paper presented at the 1994 ADRES conference, Paris (December 1994)

“Unemployment Insurance and Job Search Productivity: Measurement of the Duration-Wage Gain Relationship.” Paper presented at the CERF Conference on the Evaluation of Unemployment Insurance, Ottawa (October 1994)

“Cycles in Insured and Uninsured Unemployment.” Paper presented at the National Bureau of Economic Research summer meetings, Cambridge, MA (July 1994)

“The Productivity of UI Job Search.” Paper presented at the meetings of the Canadian Economic Association, Calgary (June 1994)

“Une vérification empirique des implications de la théorie Insider-Outsider.” Paper presented at the Congrès de l’association canadienne de science économique. Ottawa, (May 1994)

“A Test of the Insider-Outsider Theory Using Firm Level Data.” Paper presented at the XLII International Conference of the Applied Econometric Association. Aix en Provence, France (April 1994)

“Displaced Workers and the U.S. Canada Unemployment Differential.” Paper presented at the Meetings of the American Economic Association, Boston (January 1994)

“Optimal Contract, Imperfect Output Observation and Limited Liability.” Paper presented at the Congrès de la Société Canadienne et Sciences Économiques, Ottawa, June 1993, and Congrès de l’Association Canadienne et Sciences Économiques, Montréal (May 1993)

“Corporatism Run Amok: Job Stability and Industrial Policy in Belgium and the United States.” Paper presented at the 17th Economic Policy Panel, Copenhagen (April 1993)

“Corporatism Run Amok: Job Stability and Industrial Policy in Belgium and the United States.” Paper presented at the National Bureau of Economic Research University Conference on Labor Markets in International Perspective, Cambridge, MA (April 1992)

PROFESSIONAL ACTIVITIES

Vice-Chair, Economics and Law Committee, Competition Law Section. Canadian Bar Association (2015 –Present)

President. Société canadienne de science économique (2001–2002)

President-elect. Société canadienne de science économique (2000–2001)

Chair. Rae Prize Committee of the Canadian Economic Association (2000)

Member, Board of Directors. Canadian Employment Research Forum (1997–2003)

Member, Board of Directors. Canadian Economics Association (1997–2000)

Research Associate. Canadian International Labour Network (1996–2002)

Undergraduate Advisor, Département d'économique. Université Laval (1996–1998)

Chair. Regular Grants Committee (Economics), Social Sciences and Humanities Research Council of Canada (SSHRC) (1998–1999)

Member. Regular Grants Committee (Economics), SSHRC (1995–1998)

Chercheur régulier. Centre de recherche en économie et finance appliquées (1996–2002)

Professeur invité, Faculté de droit et d'économie. Université des Antilles Guyane, (1996–1999)

Chercheur régulier. Centre interuniversitaire sur le risque, les politiques économiques et l'emploi, Montréal and Québec (1991–1995)

APPENDIX B: Material Considered

Legal Documents

Amended and Restated Settlement Agreement, Within the meaning of Article 7:907 of the Dutch Civil Code, between Ageas SA/NV and Vereniging van Effectenbezitters and DRS Belgium CVBA and Stichting Investor Claims Against FORTIS and Stichting FORsettlement and Stichting FortisEffect, dated 11 December 2017.

Antwoordakte na Mondelinge Behandeling, 18 April 2017.

Court of Appeal of Amsterdam, civil law and tax law section, team I, case number: 200.191.713/01, Ruling of the three-judge civil division dated 16 June 2017 regarding the request for an order to declare an agreement binding as referred to in article 7:907 (1) of the Dutch Civil Code (DCC) (unofficial translation).

Prior Reports

Economic Expertise Regarding the Proposed Settlement between Claimants' Organizations and Ageas SA/NV by Analysis Group, Inc. and Marc Van Audenrode, Ph.D., Managing Principal, 20 May 2016.

Economic Responses to the Objections against the Proposed Settlement between Claimants' Organizations and Ageas SA/NV by Analysis Group, Inc. and Marc Van Audenrode, Ph.D., Managing Principal, 24 February 2017.

Responses to the Arguments raised by Dr. Plantinga regarding our May 2016 Report in support of the Proposed Settlement between Claimant's Organizations and Ageas SA/NV, by Analysis Group, Inc. and Marc Van Audenrode, Ph.D., Managing Principal, 21 March 2017.

In response to the Court's questions regarding table 7 in our May 2016 report, by Analysis Group, Inc. and Marc Van Audenrode, Ph.D., Managing Principal, 31 March 2017.

Information from Ageas

Thomson Reuters, Fortis Institutional Shareholder Survey as at 30 June 2008.

Articles and Book Chapters

Baker L., Perino M. and Silver C. "Is the Price Right? An Empirical Study of Fee-Setting in Securities Class Actions", *Columbia Law Review*, Vol. 115, No. 6, pp. 1371-1452, October 2015.

Eisenberg T., and Miller G. P. "Attorney Fees and Expenses in Class Action Settlements: 1993-2008", *Journal of Empirical Legal Studies*, Vol. 7, Issue 2, p. 248-281, June 2010.

Eisenberg T., Miller G. and Germano R. “Attorney’s Fees in Class Actions: 2009-2013”, New York University Law Review, Vol. 92, pp. 937-970, October 2017.

Fitzpatrick B. “Class Action Settlements and Fee Awards”, Journal of Empirical Legal Studies, Vol. 7, Issue 4, p. 811-846, December 2010.

Hodges C., Peysner J. and Nurse A. “Litigation Funding: Status and Issues”, Research Report, Lincoln Law School and Center for Socio-Legal Studies, Oxford, January 2012.

Perino M. “Institutional Activism through Litigation: An Empirical Analysis of Public Pension Fund Participation in Securities Class Actions”, Journal of Empirical Legal Studies, Vol. 9, Issue 2, pp. 368-392, June 2012.

Tzankova I. “Costs and funding of Mass Disputes: Case Study – the Netherlands”, Searle Civil Justice Institute, Public Policy Conference, 2011.

Veljanovski C. “Third-party Litigation Funding in Europe”, Journal of Law, Economics and Policy, Volume 8, Number 3, pp. 405-449, Spring 2012.

APPENDIX C: Correct Treatment of Rights Issues in the Assessment of Potential Economic Losses

Introduction

1. During Reference Period 1, Fortis raised equity through a rights issue.³⁵ Throughout our May 2016 Report, we maintained that subscribers who exercised the rights that they had received as existing shareholders to purchase newly issued shares were not harmed. We took that position because, even if the alleged corrective information had been disclosed at the time, the rights would still have been ‘in the money.’³⁶ This means that the price paid for the new Fortis shares when exercising the rights was lower than the Fortis share price taking into account the alleged corrective information. As long as the rights remained in the money, their market value would absorb the impact of the corrective information, leaving existing shareholders who subscribed unharmed. However, assuming wrongdoing, investors who subscribed after purchasing a right from an existing shareholder were harmed, having overpaid for the right.³⁷ This latter consideration was consistently integrated in our estimate of the potential economic loss and in our assessment of the reasonableness of the Settlement Agreement. Defendants claimed that our approach was wrong³⁸ and that all subscriber shares had been harmed. The Court appears to have accepted Defendants’ arguments.³⁹ We maintain that our approach is correct, and respectfully submit to the Court that it should not have followed the Defendants’ argument.
2. It should however be noted that the question whether subscribers who exercised the rights that they had received as existing shareholders suffered loss and are entitled to compensation is to some extent irrelevant. All subscriber shares, regardless whether they incurred losses or not, entitle their holders to compensation as if they were "Buyers".⁴⁰
3. It would be tempting to argue that a shareholder who held a subscription right during the period of price elevation would have been better off selling that right rather than subscribing. This is true, but this reality does not give rise to economic losses. Existing Shareholders are ‘Holders’ of a Right,

³⁵ May 2016 Report, p.7

³⁶ *Ibid.*, para. 56

³⁷ *Ibid.*, para. 61

³⁸ Antwoordakte na Mondelinge Behandeling, 18 April 2017, para. 27.

³⁹ Court of Appeal of Amsterdam, civil law and tax law section, team I, case number: 200.191.713/01, Ruling of the three-judge civil division dated 16 June 2017 regarding the request for an order to declare an agreement binding as referred to in article 7:907 (1) of the Dutch Civil Code (DCC), para. 8.9 (unofficial translation)

⁴⁰ Provided of course that the claim meets the requirements under the Settlement Agreement.

exactly as they are ‘Holders’ of a Share. Considering that failing to sell a subscription right during the period of price elevation generates economic losses is akin to considering that a shareholder who held a share through the entire period of price elevation has suffered economic loss because he could have sold that right at an elevated price.

4. We illustrate our argument that a shareholder was not made worse off by his decision to subscribe when the right remains ‘in the money’ using a figure similar to Figure 1 in our May 2016 report, applied to the Right.
5. Suppose that a stock was valued at 18 EUR, when the company provided misleading information that raised the stock price to 20 EUR. Suppose that during the period of price elevation, the Company announced a capital increase through a rights issue. Each existing share receives one right and one right is required to purchase a newly issued share at an issue price of 15 EUR. The announcement of the capital increase would generate a decrease in stock price to account for the issue price being below the current stock price. **Figure 2** shows the evolution of the stock price and of the price of the Right related to the Issue price.

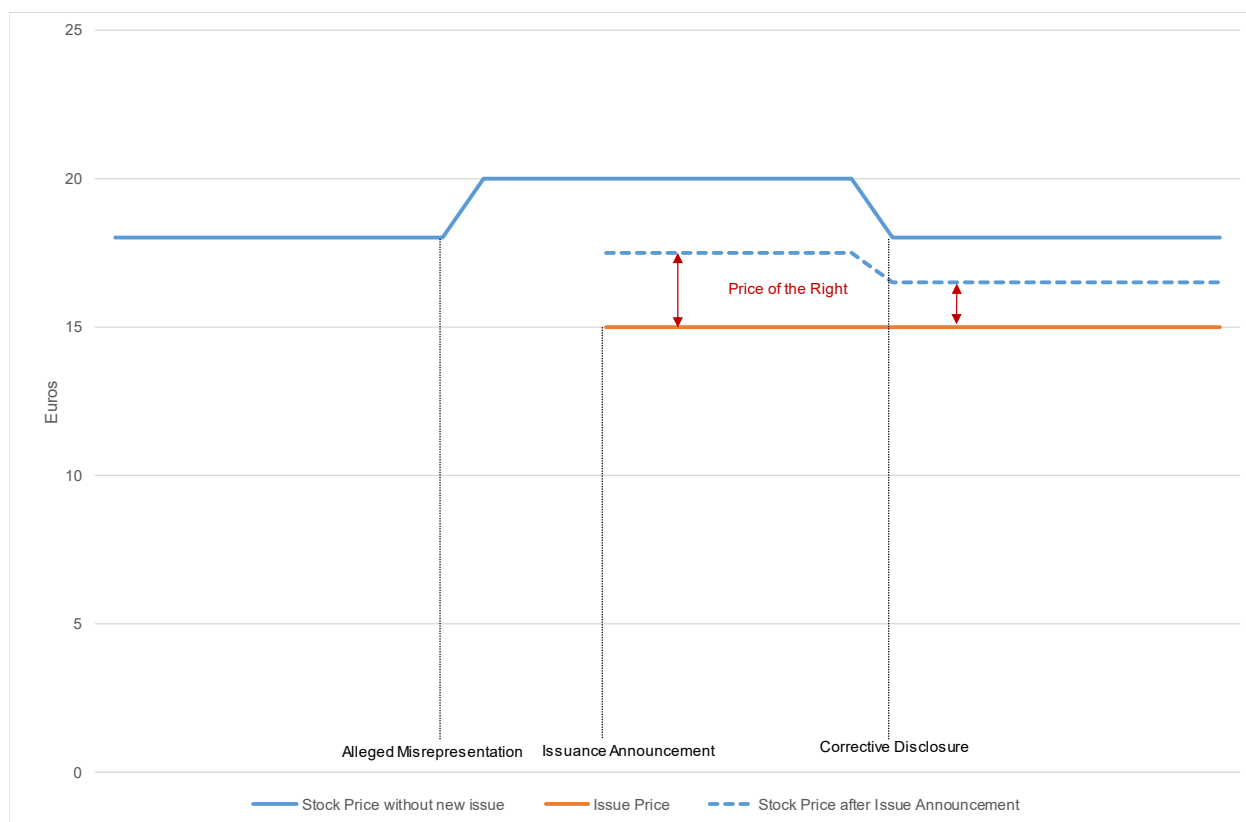


Figure 2. Illustrative example of a rights issue during which a corrective disclosure is brought by a firm that is issuing new shares at a subscription price of 15 EUR, with the share trading at 20 EUR before the price correction and at 18 EUR after the correction

6. The gap between the issue price and the stock price after issue announcement is the price of the Right. If an existing shareholder decided to subscribe during the period of the price elevation, he would pay 15 EUR for a new share. After corrective disclosure, the shareholder would still be indifferent between subscribing or selling the right. He would still pay 15 EUR for this additional share. The shareholder is not made worse by his decision to invest during the price elevation period.
7. In Fortis's case, the same principles apply. The rights issue involved the detachment of one right per share on 25 September 2007, that could be traded on stock exchanges between 25 September and 9 October 2007. The exercise of three rights, combined with the payment of 30 EUR, was required to receive two new Fortis shares. Existing Fortis shareholders had to choose between exercising their rights, and paying the subscription price of 15 EUR per new Fortis share, or selling their rights on the market, and receiving the market value of the rights.
8. We confirmed empirically that at all times, the rights traded at prices consistent with that of Fortis shares, or put in a simple equation:

$$2 P_{\text{Fortis Share}} = 3 P_{\text{Fortis Right}} + 30 + \varepsilon$$

where $P_{\text{Fortis Share}}$ is the market price of the Fortis share, $P_{\text{Fortis Right}}$ is the market price of subscription rights and ε is a small random error term. This is shown visually in **Figure 3**, which compares the actual closing prices of one Fortis share with the implicit price of one Fortis share derived from the closing price of subscription rights between 25 September and 9 October 2007.



Figure 3. Comparison of the closing Fortis share price and of closing share price implied by the price of subscription rights between 25 September 2007 and 9 October 2007. Source: Bloomberg LP

9. In other words, the market price of the subscription right would have been affected in the same way as that of the Fortis share by any alleged inflation. As in the example above, an existing shareholder of Fortis would have been equally indifferent between subscribing or selling the right with or without the alleged inflation.

Numerical example

10. We assume that a corporation has 1,000 shares outstanding (OS). The corporation is valued at 20,000 EUR (CV). Each share has a value of 20 EUR ($OP = CV / OS$). Suppose that the corporation announces a capital increase through a rights issue. Each existing share receives one right and one right is required to purchase a newly issued share at an issuance price of 15 EUR (IP), for a total of 15,000 EUR ($NS \times IP = IV$) of newly raised capital. At the end of the capital increase, the company is worth 35,000 EUR ($NV = CV + IV$) and has 2,000 outstanding shares (TS) worth 17.50 EUR (the so-called “Theoretical Ex-Rights Price” or $TERP = NV / TS$). Given that the issuance price of the newly issued share is 15 EUR (IV), the price of a right has to be 2.50 EUR ($TERP - IP = 17.50 - 15.00$)

11. After the capital increase, the net worth of an existing shareholder is 20 EUR, whether he chooses to subscribe or not:
- a. If he chooses to subscribe, he owns two shares each priced at 17.50 EUR (TERP), but spent 15 EUR (IP) ($35 \text{ EUR} - 15 \text{ EUR} = 20 \text{ EUR}$).
 - b. If he sells the right, he owns one share, but received 2.50 EUR (RP) for the sale of the right ($17.50 \text{ EUR} + 2.50 \text{ EUR} = 20 \text{ EUR}$).

This scenario is described in Column “**Scenario 1**” of **Table 8**.

12. Suppose that the corporation had failed to disclose some harmful information that, if disclosed, would have reduced the value of the corporation by 2,000 EUR. This is the counterfactual situation described in Column “**Scenario 2**” of Table 8. The price of the share would have dropped to 18.00 EUR (OP). If the corporation had decided to go ahead with the capital increase despite the announcement, the price of the right (RP) should have been lower (1.50 EUR), but the shareholder’s net worth would have remained 18.00 EUR, regardless of whether he decided to subscribe or not:
- a. If he had chosen to subscribe, he would have owned two shares each priced at 16.50 EUR (TERP), for a total of 33 EUR, but would have spent 15 EUR (IP) ($33 \text{ EUR} - 15 \text{ EUR} = 18 \text{ EUR}$).
 - b. If he had chosen to sell the right, he would have owned one share, but would have received 1.50 EUR (RP) for the sale of the right, for a total value of 18 EUR ($16.50 \text{ EUR} + 1.50 \text{ EUR} = 18 \text{ EUR}$).

13. There is clearly no economic loss arising from the decision to subscribe for an existing shareholder. However, a subscriber who would have bought a right from an existing shareholder would have overpaid, paying 2.50 EUR for a right that in reality was worth only 1.50 EUR. From an economic perspective, the purchaser of a right suffers from the same alleged damages as the purchaser of a share. Accordingly, we treated right purchases identically to share purchases in our calculations, and we assimilated right Buyers to share Buyers. And we considered unsold rights in the same way as unsold shares, and we assimilated right Holders as right Buyers.

		Scenario 1	Scenario 2	Scenario 3
Outstanding shares	OS	1,000	1,000	1,000
Value	CV	20,000	18,000	18,000
Price of outstanding shares	$OP = CV / OS$	20.00	18.00	18.00
New shares	NS	1,000	1,000	1,000
Issuance price	IP	15.00	15.00	14.00
Capital raised	$IV = NS \times IP$	15,000	15,000	14,000
Value of company after equity issuance	$NV = CV + IV$	35,000	33,000	32,000
Total number of shares	$TS = OS + NP$	2,000	2,000	2,000
Value of shares after rights issue	$TERP = NV / TS$	17.50	16.50	16.00
Value of right	$RP = TERP - IP$	2.50	1.50	2.00
<i>Existing Share</i>				
Value of Existing share		17.50	16.50	16.00
Economic gain (loss) on Existing share			-1.00	-1.50
A shareholder who owns one share can either exercise or sell the right that he receives				
<i>In case of exercise</i>				
Number of shares held	S	2.00	2.00	2.00
Value of shares held	$S \times TERP$	35.00	33.00	32.00
Purchase cost	IP	15.00	15.00	14.00
Investor Net Worth (Value of Shares Held - Purchase Cost)	$S \times TERP - IP$	20.00	18.00	18.00
<i>In case of sale of right</i>				
Value of shares held	TERP	17.50	16.50	16.00
Revenue from Sale of the Right	RP	2.50	1.50	2.00
Investor Net Worth (Value of Shares Held + Sale of Rights)	$TERP + RP$	20.00	18.00	18.00

Table 8. Issue Price and Economic Losses

14. Our understanding of the Defendants' argument is that subscribers were harmed because in a rights issue the issuance prices are often set below existing share prices, and that if the price of the stock had been lower, so would have the issuance price. However, the issuance price is not the same as the share price. As shown above, the share price is the sum of issuance price and of the price of the right. We illustrate such scenario in Column "**Scenario 3**" of **Table 8**.
15. In that column, we consider a scenario in which as a consequence of the negative announcement that brought the price of the share down to 18.00 EUR (OP), the corporation had been forced to revise its issuance price down to 14.00 EUR (IP). The value of the right would have been 2.00 EUR

(RP), but the net worth of the shareholder would still have been 18.00 EUR regardless of his decision to subscribe or not:

- a. If the shareholder had subscribed, he would have owned two shares each priced at 16 EUR (TERP), for a total of 32 EUR, but would have spent 14 EUR (IP) (32 EUR - 14 EUR = 18 EUR).
- b. If the shareholder had sold the right, he would have owned one share, but would have received 2 EUR (RP) for the sale of the right, for a total value of 18 EUR (16 EUR + 2 EUR = 18 EUR).

16. This shows that:

- a. In every scenario considered, an existing shareholder's net worth at the end of the capital increase is never affected by the shareholder's decision to subscribe or not.
- b. In both **Scenario 2** and **Scenario 3**, an existing shareholder's net worth at the end of the capital increase is exactly what it should be given that he was holding a share before the beginning of the price elevation period.

Mathematical proof

17. The calculations below illustrate with a simple example why Defendants are wrong when claiming that shareholders who subscribed to the capital increase using rights they had received suffered an economic loss as a result of this subscription.
18. We set up a very simple example of a corporation with N outstanding shares. The corporation is valued at V . Each share is priced at $\frac{V}{N}$. Suppose that the corporation announces a capital increase through a rights issue, with existing shareholders receiving the right to purchase r new shares for every q shares they currently own. The new shares are issued at a price of P , for a total of $N * \frac{r}{q} * P$ newly raised capital. At the end of the capital increase, the company will be worth $V + N * \frac{r}{q} * P$ and will have $N * \left(1 + \frac{r}{q}\right)$ outstanding shares, each worth $\frac{V + N * r / q * P}{N * (1 + r / q)}$ (the so-called "Theoretical Ex-Rights Price" or *TERP*). Given that the issue price of the newly issued share is P , the price of a right will be *TERP* - P .

	Outstanding	Newly issued	Total after issuing
Number of shares	N	$N * \frac{r}{q}$	$N * \left(1 + \frac{r}{q}\right)$
Value of shares	V	$N * \frac{r}{q} * P$	$V + N * \frac{r}{q} * P$
Price per share	$\frac{V}{N}$	P	$TERP = \frac{V + N * r / q * P}{N * (1 + r / q)}$
Right to existing share ratio		$\frac{r}{q}$	

19. After the capital increase, the net worth of an existing shareholder will be the same, whether he chooses to subscribe or not, because:

- a. If he chooses to subscribe, he will own $r + q$ shares, each priced at $TERP$, but will have spent r times P in order to purchase the new shares. Formally:

$$(r + q) * TERP - r * P$$

- b. If he sells the right, he will continue to own q shares (now each priced at $TERP$), but will have received r times $TERP - P$ for the sale of the right. Formally:

$$q * TERP + r * (TERP - P)$$

20. It is easy to see that these two amounts are the same if we open the brackets, showing that shareholders are no worse off if they subscribe than if they sell their rights.

$$r * TERP + q * TERP - r * P == q * TERP + r * (TERP) - r * P$$

21. Given that the above equality does not depend on the specific value of the parameters, the conclusion that shareholders are not worse when subscribing than when selling their rights is true regardless of whether the total value of the company has been lowered due to an alleged defective communication, and regardless of the issue price of the new shares.

ANNEX 31

PRESS RELEASE

Brussels, 12 December 2017 – 08:30(CET)



Amended Fortis settlement agreement reached

Ageas and the claimant organisations have reached an amended settlement that takes into consideration the main concerns of the Amsterdam Court of Appeal as expressed in its interim decision of 16 June 2017. The Parties will submit the amended settlement proposal to the Amsterdam Court of Appeal today, with the request to declare the settlement binding for all Eligible Shareholders in accordance with the Dutch Act on Collective Settlement of Mass Claims (Wet Collectieve Afwikkeling Massaschade, “WCAM”).

Ageas’s additional effort of EUR 100 million as announced on 16 October 2017, raising the overall budget for the settlement to EUR 1.3 billion, has allowed to strengthen the initial settlement agreement, taking into account the Court’s main concerns while honouring the previous commitments made.

Under the terms of the amended settlement agreement so-called active and non-active claimants will be entitled to the same base amounts of compensation for their damages. Compensation for damages and the additional compensation component have been equalised for all Eligible Shareholders, whilst active claimants will be entitled to additional cost compensation.

The revised structure also takes into account the Court’s concern regarding the lack of solidarity in case of dilution and it better protects the Buyers’ interests.

In order to ensure that all claimants can ascertain which rights they will waive in return for the compensation they will receive, a clear and comprehensive list of the Events for which such waiver is requested, has been included.

The amended proposal does not impact Ageas’s results or its solvency position as all charges have already been provisioned and accounted for in the third quarter 2017 results.

Further important support

Alongside the initial signatories (VEB, Deminor, Stichting FortisEffect and SICAF) and the reconfirmed support by Mr. Arnauts and Mr. Lenssens, the Dutch consumer organisation ConsumentenClaim, has, based on the proposed amendments, decided to submit the amended settlement with a positive recommendation to its constituents. ConsumentenClaim was one of the main opposing parties at the public court hearing of March 2017.

This further strengthens the broad public support for this settlement proposal.

The amended settlement has been facilitated by the mediation of Stephen Greenberg from the Pilgrim Group and Yves Herinckx.

Bart De Smet, CEO Ageas, commented: *“After months of hard work, we are pleased to have reached an amended settlement agreement with the initial signatories VEB, Deminor, SICAF and Stichting FortisEffect, and to get the full support of ConsumentenClaim and most other organisations representing the former Fortis shareholders. We are confident that this agreement takes into account the Court’s main concerns, whilst offering a fair and balanced solution for all affected by the past events.”*

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Next steps

Today, Ageas and the claimant organisations will submit the amended proposal to the Amsterdam Court of Appeal with the request to declare the settlement binding. Next, a public hearing will be scheduled after which the Court has to decide whether it declares the settlement binding.

Practical information

All information related to the amended Fortis settlement will be made available on Wednesday 13 December 2017 on the dedicated website FORsettlement.com.

At that time, a calculation tool will once again be made available. This tool allows Eligible Shareholders to get a first estimate of the compensation they will receive under the amended settlement agreement. For any further questions the dedicated mailbox info@forsettlement.com or the following toll free call centre phone numbers can be used:

- Belgium : 0800 26 83 2
- The Netherlands : +31 30 25 25 359
- International : +32 (0)2 557 59 00

In annex to this press release more details are provided on the structure and compensation principles by category of Eligible Shareholders.

Annex: Overview of the main compensation principles of the amended settlement agreement

As successor to Fortis and following the Events in 2007 and 2008, ageas SA/NV is and has been involved in a series of legal proceedings in Belgium and the Netherlands in which it faces a number of more or less similar claims for damages. Ageas and some claimant organisations have now reached an agreement which implies that:

- Ageas is not recognising any wrongdoing and no ultimate payment to Eligible Shareholders can be construed as recognition of any wrongdoing. Such payment will only be made if and when the beneficiary commits not to start any legal proceeding related to the Events and to immediately cease and abandon any ongoing proceeding.
- Ageas makes an amount available to shareholders that accept such commitment and who adequately prove to have acquired or held Fortis Shares during specific periods. The amounts attributed will depend on the specific characteristics of the acquisitions and the holdings during that period.

The amount that would be obtained by an “Eligible Shareholder” depends on the specific characteristics of his/her acquisitions and holdings. Hence at this stage it is impossible to supply any standard answer on what any individual would receive.

In order to calculate the compensation amount for each “Eligible Shareholder”, Ageas and the participating claimant organisations, “the Parties”, have used a few principles to define categories of shareholders. These principles, to a large extent, remain unchanged as compared to the initial agreement. Within these categories, the final compensation amount per share will depend on the ultimate amount of shares that participate to the settlement and the final amount by category of shareholder.

Eligible Shareholder

An Eligible Shareholder is any person who held Fortis Shares at any time between 28 February 2007 and 14 October 2008 (both Close of Business). The eligible shares refer to the shares currently named Ageas (stock ticker “AGS”) and the number of eligible shares refers to the number of shares before the reverse stock split of 10:1, effected in 2012.

Eligible Shareholders will have to waive all further rights to compensation in any form from any party related to the Events that took place during the eligible period.

Reference Periods

Although Ageas entered into the settlement without admitting any wrongdoing, the Parties took into consideration the various litigation procedures, the main allegations and which judgments have been rendered so far, in order to calculate the compensation amount. On that basis, three main allegations have been defined:

- Fortis’ communication on its subprime exposure in September/October 2007
- Fortis’ communication on its future solvency after full integration of ABN AMRO in May/June 2008
- Fortis’ communication on the deal with the Benelux governments between 29 September and 1 October 2008

Leading to 3 reference periods:

- a. Period 1 : 21 September 2007 until 7 November 2007 close of business
- b. Period 2 : 13 May 2008 until 25 June 2008 close of business
- c. Period 3 : 29 September 2008 until 3 October 2008 close of business

An important overall principle is that claims are only eligible if the said shareholder bought or held the eligible shares during any of the 3 reference periods and still held them on the last day of the related reference period.

Buyers – Holders

Based on generally accepted economic principles a distinction has been made between Buyers and Holders. Buyers are defined as those persons who bought shares during one of the reference periods and who kept them at least until the end of that reference period (close of business). Simultaneously and taking into account the fact that Fortis had many long term retail shareholders, the Parties have considered and decided to also pay a compensation to “Holders”. “Holders” are ‘Eligible Shareholders’ who bought their shares outside one of the reference periods and still held these at the end of one of the reference periods (close of business).

Additional compensation

The Parties have agreed that all shareholders who complete a valid claims form and who can prove to have held Fortis Shares anytime between 28 February 2007 and 14 October 2008 (close of business) will receive an additional compensation.

Eligibility for cost compensation

Any Eligible Shareholder who took an affirmative step to make a claim against Ageas in relation to the Events by participating in a Belgian or Dutch court action or by having registered or joined, before 31 December 2014, a Dutch or Belgian organisation, including the claimant organisations, which has initiated a court action before 24 March 2017.

Compensation structure simplified

	Period 1	Period 2	Period 3
Compensation for Buyers (per share)	EUR 0.47	EUR 1.07	EUR 0.31
Compensation for Holders (per share)	EUR 0.23	EUR 0.51	EUR 0.15
Additional compensation for all Eligible Shareholders	EUR 0.50 per share with a max. of EUR 950		
Cost addition for Active claimant	25% of the compensation for Buyers and/or Holders		

Please note that the per share amounts are subject to potential dilution or increase depending on the number of Fortis Shares that will ultimately be presented. Moreover, please keep in mind that the proposed settlement has not yet been declared binding by the Court and that Ageas has a termination right at the end of the opt-out period if the pay-out amount for the number of Fortis Shares opting out exceeds 5 % of the total settlement amount.

Ageas is a listed international insurance Group with a heritage spanning 190 years. It offers Retail and Business customers Life and Non-Life products that meet their specific needs, not just for today but also for tomorrow. Ageas, one of the largest insurance companies in Europe, is mainly active in Europe and Asia, which together make up the majority of the global insurance market. Through a combination of wholly owned subsidiaries and long term partnerships with strong financial institutions and key distributors, Ageas operates successful insurance businesses in Belgium, the UK, Luxembourg, France, Italy, Portugal, Turkey, China, Malaysia, India, Thailand, Vietnam, Laos, Cambodia, Singapore, and the Philippines. In most of the countries where it operates, Ageas is among the market leaders. Ageas has more than 40,000 employees, and inflows amounted to around EUR 32 billion (all figures at 100%) in 2016.