

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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RICHARD DENNIS, et al.,

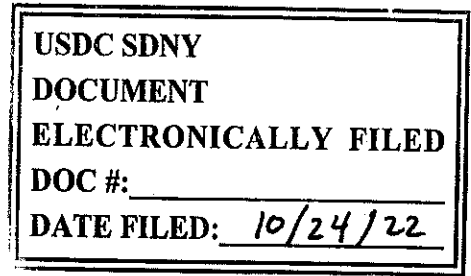
Plaintiffs,

-against-

16-cv-6496 (LAK)

JP MORGAN CHASE & CO., et al.,

Defendants.
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ORDER

LEWIS A. KAPLAN, *District Judge.*

Plaintiffs’ October 17, 2022 letter [Dkt 580] indicates that “there have been . . . two requests for exclusion” from the pending settlements.

Pursuant to Section III.C of the Notice of Proposed Class Action Settlements (“Class Notice”), class members seeking exclusion were required to submit the following information in a written, signed and notarized request to the class administrator no later than September 2, 2022:

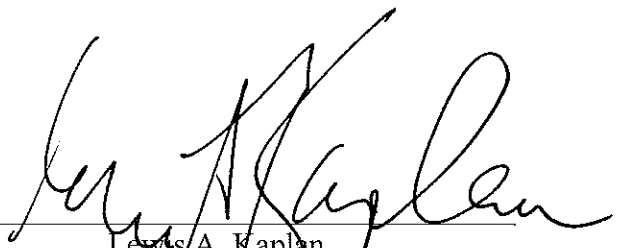
“(i) the name, address, and telephone number of the Settlement Class Member, (ii) a list of all trade names or business names that the Settlement Class Member requests to be excluded; (iii) the name of the Action (“*Dennis et al. v. JPMorgan Chase & Co. et al.*, No. 16-cv-06496 (LAK) (S.D.N.Y.)”); (iv) a statement certifying such person is a Settlement Class Member; (v) a description of the BBSW-Based Derivatives transactions purchased, acquired, sold, held, traded or that the Settlement Class Member otherwise had any interest in that fall within the Settlement Class definition (including, for each transaction, the identity of the broker, the date of the transaction, the type (including direction) of the transaction, the counterparty (if any), the exchange on which the transaction occurred (if any), any transaction identification numbers, the rate, the effective and maturity dates and/or trade dates for each of the aforementioned transactions and the notional value or amounts of the transactions); and (vi) a statement that ‘I/we hereby request that I/we be excluded from the Settlement Class in *Dennis et al. v. JPMorgan Chase & Co. et al.*, No. 16-cv-06496 (LAK) (S.D.N.Y.) for the Settlements with’ JPMorgan, Westpac, ANZ, CBA, NAB, Morgan Stanley, Credit Suisse, and/or BNPP, Deutsche Bank, RBC, RBS and UBS.’”

The October 17 letter indicates that the first request, on behalf of Kerant Capital Limited, is postmarked July 25, 2022. The second, filed by KPMG Luxembourg S.A. (as liquidator or Nordea Bank S.A.), is not postmarked but was notarized on August 31, 2022. Although the Class Administrator apparently takes the position that the latter request is untimely, Dkt 580-1, at 6, the Court notes that plaintiffs' October 20, 2022 letter [Dkt 581] communicates that none of the settling defendants shares that view. A minority of the settling defendants posits that both requests are deficient "because they do not provide the information required by the Class Notice," namely the description of the class member's relevant BBSW-Based Derivatives transactions.

The Court concludes the written requests as described are timely and sufficiently clear to warrant the requesting members' exclusion from the settlement class. Rule 23 does not require more, nor is the Court persuaded that it should do so in these circumstances. *See In re WorldCom, Inc. Sec. Litig.*, No. 02-cv-3288 (DLC), 2005 WL 1048073, at *4 (S.D.N.Y. May 5, 2005) ("Because flexibility in making this determination is appropriate, 'any written evidence' containing a 'reasonable indication of a desire to opt out ought to be sufficient.'") (quoting *In re Four Seasons Sec. Laws Litig.*, 493 F.2d 1288, 1291 (10th Cir. 1974)); *see also In re Sunedison, Inc. Sec. Litig.*, No. 16-md-2742 (PKC), 2018 WL 2356663, at *3 (S.D.N.Y. May 1, 2018). Kerant Capital Limited and KPMG Luxembourg S.A. are excluded from the settlement class.

SO ORDERED.

Dated: October 24, 2022



Lewis A. Kaplan
United States District Judge