

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

SECURITIES INVESTOR PROTECTION  
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT  
SECURITIES LLC,

Defendant.

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

SIPA Liquidation

(Substantively Consolidated)

In re:

BERNARD L. MADOFF,

Debtor.

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

Plaintiff,

v.

MERRILL LYNCH INTERNATIONAL,

Defendant.

Adv. Pro. No. 10-05346 (LGB)

**STIPULATION AND ORDER TO WAIVE DEFENSE**

Irving H. Picard (the “Trustee”), as trustee for the substantively consolidated liquidation of the business of Bernard L. Madoff Investment Securities LLC, under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa–III, and the estate of Bernard L. Madoff, under Chapter 7 of the United States Bankruptcy Code, by and through his counsel, and defendant Merrill Lynch

International (“Defendant,” and together with the Trustee, the “Parties”), by and through their respective undersigned counsel, stipulate and agree as follows:

**WHEREAS**, on August 19, 2022, the Trustee filed an Amended Complaint [ECF No. 137];

**WHEREAS**, on May 22, 2023, Defendant filed its Answer and Jury Demand [ECF 161];  
and

**WHEREAS**, the Parties have conferred and agree that the Defendant shall and hereby does waive its right, if any, to assert “Lack of Dominion or Control” and/or “Mere Conduit” defenses to the Amended Complaint;

**NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED** by the Parties,  
and **SO ORDERED** by the Court that:

1. Defendant hereby waives and shall not now or in the future assert a defense in this action arising out of lack of dominion and/or lack of control over any monies, receipts, redemptions, fees, or other value Defendant derived from BLMIS, either directly or indirectly as an initial transferee or as an immediate or mediate transferee, i.e. a subsequent transferee for purposes of 11 U.S.C. § 550(a);
2. Defendant hereby waives and shall not now or in the future assert a defense in this action arising out of the theory or contention that -- when Defendant derived any monies, proceeds, redemptions, fees, or other value directly or indirectly from BLMIS -- it was acting in a mere conduit, agency, custodial, intermediary, or any other representative capacity for the benefit of any client, customer, investor, shareholder, or other third-party beneficiary or recipient of the proceeds or value in question; and that
3. The Parties otherwise reserve all other rights, arguments, objections, and defenses they may have, and their entry into this Stipulation shall not impair or otherwise affect any such rights, arguments, objections, and defenses except than as described herein.

*[Signatures on following page]*

Dated: September 29, 2025  
New York, New York

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LLC and the Chapter 7 Estate of Bernard L.  
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*Attorneys for Defendant  
Merrill Lynch Bank (Suisse) SA*

**SO ORDERED:**

**DATED: September 30, 2025**  
**NEW YORK, NEW YORK**

/s/ Lisa G. Beckerman  
**HONARABLE LISA G. BECKERMAN**  
**UNITED STATES BANKRUPTCY JUDGE**