

**Hearing Date: March 15, 2023**  
**Opposition Date: December 9, 2022**  
**Reply Date: January 11, 2023**

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

<p>SECURITIES INVESTOR PROTECTION CORPORATION,</p> <p style="text-align: right;">Plaintiff-Applicant,</p> <p style="text-align: center;">v.</p> <p>BERNARD L. MADOFF INVESTMENT SECURITIES LLC,</p> <p style="text-align: right;">Defendant.</p>	<p>Adv. Pro. No. 08-01789 (CGM)</p> <p>SIPA Liquidation</p> <p>(Substantively Consolidated)</p>
<p>In re:</p> <p>BERNARD L. MADOFF,</p> <p style="text-align: right;">Debtor.</p>	
<p>IRVING H. PICARD, Trustee for the Liquidation of Bernard L. Madoff Investment Securities LLC, and Bernard L. Madoff,</p> <p style="text-align: right;">Plaintiff,</p> <p style="text-align: center;">v.</p> <p>MERRILL LYNCH INTERNATIONAL,</p> <p style="text-align: right;">Defendant.</p>	<p>Adv. Pro. No. 10-05346 (CGM)</p>

**NOTICE OF MOTION TO DISMISS**

**PLEASE TAKE NOTICE** that Defendant Merrill Lynch International, by and through its undersigned counsel, submits its memorandum of law and accompanying declarations and exhibits in support of its motion to dismiss the amended complaint of Plaintiff Irving H. Picard, trustee for the liquidation of Bernard L. Madoff Investment Securities LLC and the substantially consolidated estate of Bernard L. Madoff under the Federal Rules of Civil Procedure.

Dated: October 19, 2022

New York, New York

Respectfully submitted,

O'MELVENY & MYERS LLP

By: /s/ Pamela A. Miller

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**[PROPOSED] ORDER**

**WHEREAS**, on August 19, 2022, Plaintiff Irving H. Picard, trustee for the liquidation of Bernard L. Madoff Investment Securities LLC and the substantially consolidated estate of Bernard L. Madoff filed the amended complaint (the “Amended Complaint”) in the above-captioned adversary proceeding;

**WHEREAS**, on October 19, 2022, Merrill Lynch International (“MLI”), defendant in the above-captioned adversary proceeding filed a motion seeking an Order dismissing the Amended Complaint (the “Motion to Dismiss”); and

**WHEREAS**, on March 15, 2023, the Court held a hearing on the Motion to Dismiss (the “Hearing”); and

**WHEREAS**, the Court has considered the arguments made by counsel at the Hearing and all papers filed in support of and in opposition to the Motion to Dismiss;

**NOW THEREFORE, IT IS HEREBY ORDERED** that, for the reasons set forth in the Motion to Dismiss and by the Court on the record of the Hearing, the Motion to Dismiss is granted, and the Complaint is dismissed with prejudice.