

**Hearing Date: April 19, 2023**  
**Objection Date: January 20, 2023**  
**Reply Date: February 20, 2023**

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

<p>SECURITIES INVESTOR PROTECTION CORPORATION,</p> <p style="text-align: center;">Plaintiff-Applicant,</p> <p style="text-align: center;">v.</p> <p>BERNARD L. MADOFF INVESTMENT SECURITIES LLC,</p> <p style="text-align: center;">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: center;">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: center;">Plaintiff,</p> <p style="text-align: center;">v.</p> <p>MERRILL LYNCH BANK (SUISSE) SA, n/k/a BANK JULIUS BÄR &amp; CO. AG a/k/a BANK JULIUS BAER &amp; CO. LTD.,</p> <p style="text-align: center;">Defendant.</p>	<p>Adv. Pro. No. 11-02910 (CGM)</p>

**NOTICE OF MOTION TO DISMISS**

**PLEASE TAKE NOTICE** that Defendant Merrill Lynch Bank (Suisse) SA, by and through its undersigned counsel, submits its memorandum of law and accompanying declaration 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: November 21, 2022

New York, New York

Respectfully submitted,

O'MELVENY & MYERS LLP

By: /s/ Pamela A. Miller

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**WHEREAS**, on April 19, 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.