

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

**UNITED STATES COMMODITY
FUTURES TRADING COMMISSION,
Plaintiff,**

v.

**IB CAPITAL FX, LLC (A/K/A IB
CAPITAL FX (NZ) LLP) D/B/A IB
CAPITAL, MICHEL GEURKINK, and
EMADE ECHADI,
Defendants.**

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CAUSE NO. 1-12-CV-0862-LY

THIRD JOINT ADVISORY TO THE COURT

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

Pursuant to the Court’s Order dated January 22, 2020 [#161], the Receiver and Nonparty ING Bank, N.V. (“ING Bank”)¹ jointly file this third advisory to update the Court on the status of the related, ongoing matter in the Netherlands.²

Progress on Agreement in Principle to Transfer Funds

1. As previously reported to the Court, the Dutch Public Prosecutor’s Office (“DPPO”), the Receiver and ING Bank have reached an agreement in principle covering the partial release of the IB Capital and Maverick funds that, once finalized, will allow for the release of funds to the Receiver above the amount of €3 million, which will remain on deposit. Thus, the total amount of funds to be released exceeds €3 million, while a balance of €3 million

¹ ING Bank continues to reserve, and does not waive, all rights and defenses, including without limitation the defense based on the lack of personal jurisdiction.

² As to the Receiver’s pending application in a London court to have IB Capital FX LLP (“IB Capital”) and Maverick Venture Capital Holding Ltd. (“Maverick”) restored to the United Kingdom’s Registrar of Companies, by letter dated January 14, 2020, the UK Treasury Solicitor indicated that she will consent to the restoration of Maverick subject to certain undertakings. As previously, a hearing on the Receiver’s restoration application is scheduled for March 4, 2020.

will remain in the ING Bank accounts, subject to the DPPO freezing order, until an irrevocable court ruling in the on-going criminal proceedings in the Netherlands or until further arrangements can be reached between the DPPO and the Receiver.

2. As a condition to the release of these funds, the DPPO requested certain written statements from ING Bank, which ING Bank has delivered in draft to the DPPO. In addition, the DPPO, the Receiver and ING Bank have exchanged various drafts of formal documentation to memorialize their agreement in principle, which involves a back-to-back agreement involving the DPPO and ING Bank on the one hand and a separate agreement involving the ING Bank and the Receiver. ING Bank and the Receiver have agreed on the form of agreement relating to their points. Separately, the DPPO has provided comments to ING Bank on draft documentation, and those two parties are working to finalize the form of agreement relating to their separate points.

Further Reporting

3. In the event the agreement in principle between the DPPO, the Receiver and ING Bank is not finalized by March 27, 2020, the Receiver and ING Bank will file a further joint advisory to update the Court on their progress.

4. The Receiver and ING Bank remain available to discuss these matters at the Court's convenience.

Dated: February 27, 2020

Respectfully submitted,

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Counsel to Nonparty ING Bank, N.V.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been served on all counsel of record by way of:

- Certified Mail
- Facsimile
- Federal Express
- Hand Delivery
- E-Mail
- E-Service

on this February 27, 2020.

/s/ Carlos R. Soltero
Carlos R. Soltero