

**EXHIBIT C**

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

<p>IN RE HERALD, PRIMEO, AND THEMA FUNDS SECURITIES LITIGATION</p> <hr/> <p>This Document Relates to:</p> <p>NEVILLE SEYMOUR DAVIS,</p> <p style="text-align: right;">Plaintiff,</p> <p style="text-align: center;">vs.</p> <p>ALBERTO BENBASSAT, STÉPHANE BENBASSAT, GENEVALOR, BENBASSAT &amp; CIE, GERALD J.P. BRADY, JOHN HOLLIWELL, SONJA KOHN, DANIEL MORRISSEY, PETER SCHEITHAUER, DAVID T. SMITH, WERNER TRIPOLT, BANK MEDICI AG, UNICREDIT SPA, HSBC INSTITUTIONAL TRUST SERVICES (IRELAND) LTD., HSBC SECURITIES SERVICES (IRELAND) LTD., HSBC BANK USA, N.A., HSBC HOLDINGS PLC, PRICEWATERHOUSECOOPERS INTERNATIONAL LTD., PRICEWATERHOUSECOOPERS (DUBLIN), PRICEWATERHOUSECOOPERS LLP, PRICEWATERHOUSECOOPERS BERMUDA, THEMA ASSET MANAGEMENT LIMITED, THEMA INTERNATIONAL FUND PLC, BA WORLDWIDE FUND MANAGEMENT LIMITED, PETER MADOFF, ANDREW MADOFF, THE ESTATE OF MARK MADOFF, WILLIAM FRY, JP MORGAN CHASE &amp; CO., and THE BANK OF NEW YORK MELLON,</p> <p style="text-align: right;">Defendants.</p>	<p>ECF Case</p> <p>Case No. 09 Civ. 0289 (RMB)</p> <p>Case No. 09 Civ. 2558 (RMB)</p> <p><b>[Proposed] Settlement Approval Order and Judgment</b></p>
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**[PROPOSED] SETTLEMENT APPROVAL ORDER AND JUDGMENT**

This matter having come before the Court for hearing, pursuant to the Order of this Court, dated \_\_\_\_\_, 2012 (the “Preliminary Approval Order”), on the application of the Settling Parties for approval of the settlement (the “Settlement”) set forth in the Second Amended and Restated Stipulation and Agreement, dated November 27, 2011 (the “Second Amended Stipulation”), with due and adequate notice having been given to the Settlement Class (as defined in the Second Amended Stipulation) as required in said Order, and the Court having considered all papers filed and proceedings had herein and otherwise being fully informed in the premises and good cause appearing therefore, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that:

1. This Order incorporates the Second Amended Stipulation and all exhibits attached thereto as though fully set forth herein. All capitalized terms not defined herein shall have the same meanings as set forth in the Second Amended Stipulation.

2. This Court has jurisdiction over the subject matter of the Action, including the terms and conditions of the Second Amended Stipulation and all exhibits thereto, and personal jurisdiction over all Settlement Class Members.

3. This Court finds, based on the record in the Action and for purposes of the Second Amended Stipulation and Settlement only, that each of the elements required of a class action pursuant to Rule 23 of the Federal Rules of Civil Procedure have been satisfied. Specifically: (a) the Settlement Class satisfies the numerosity requirement of Rule 23(a)(1); (b) there are common issues of fact and law sufficient to satisfy Rule 23(a)(2); (c) the claims of the Lead Plaintiff are typical of the claims of Settlement Class Members as required by Rule 23(a)(3); (d) the Lead Plaintiff, as a beneficial owner of Thema International Fund plc shares who has made no assignment of his interests or claims, is an adequate representative of the Settlement Class in

satisfaction of Rule 23(a)(4); (e) common issues predominate over individual issues, satisfying Rule 23(b)(3); and (f) class action treatment is a superior method of adjudicating this matter fairly and efficiently, satisfying Rule 23(b)(3).

4. Therefore, the Action is hereby certified as a class action pursuant to Rule 23 solely for the purposes of the Second Amended Stipulation and Settlement, consisting of all persons and entities who owned shares of Thema International Fund plc, or its sub-fund Thema Fund (the “Fund”), on December 10, 2008, and suffered damages thereby due to the conduct alleged in the Amended Complaints, including the legal representatives, heirs, successors in interest, assigns and transferees, intermediate and remote, of all such foregoing holders and/or owners, immediate and remote.

5. Excluded from the Settlement Class are the Defendants and each of their officers and directors, as well as their families and affiliates, provided however that any affiliate of the Settling Defendants acting as agent or nominee for a beneficial owner of shares of the Fund who is not an excluded person or entity described above shall be deemed to be a Settlement Class Member. Also excluded from the Settlement Class and, to the extent permitted by applicable law, any other class that may subsequently be certified in the Action are those persons or entities who timely and validly requested exclusion from the class in accordance with the requirements set forth in the Notice.

6. Pursuant to Rule 23, and for the purposes of Settlement only, Lead Plaintiff Neville Seymour Davis is certified as Class Representative for the Action, and the law firm of Chapin Fitzgerald Sullivan & Bottini LLP, is appointed Class Counsel.

7. The Court approves the appointment of Gilardi & Co. LLC as Settlement Administrator.

8. The Court has received affidavits and declarations attesting to the mailing and delivery of the Notice and publication of the Publication Notice. The Court hereby finds:

a. that the Notice of the Settlement and Notice to appropriate governmental regulators have been provided pursuant to and in the manner directed by the Preliminary Approval Order, and full opportunity to be heard has been offered to all Parties, the Settlement Class, and Persons in interest;

b. that the form and manner of the notices were the best notice practicable under the circumstances, including individual notice to all Settlement Class Members who could be identified through reasonable effort, and were reasonably calculated under the circumstances to apprise potential Settlement Class Members of: (1) the proposed Settlement of the Action; (2) their right to exclude themselves from the Settlement Class; (3) their right to object to any aspect of the proposed Settlement; (4) their right to appear at the Fairness Hearing, either on their own or through counsel hired at their own expense, provided they did not exclude themselves from the Settlement Class; and (5) the binding effect of the proceedings, rulings, orders, and judgments in the Actions on all persons not excluded from the Settlement Class;

c. that said notice therefore provided due and adequate notice of these proceedings and of the matters set forth in the Second Amended Stipulation to all persons entitled to such notice;

d. that said notice fully satisfied the relevant requirements of the Federal Rules of Civil Procedure, the Due Process Clause of the United States Constitution, the Class Action Fairness Act, the Private Securities Litigation Reform Act of 1995, the Rules of Court, and any other applicable law; and

e. that in light of the foregoing, this Court finds that all Settlement Class Members and other persons entitled to Notice shall upon the Effective Date be hereby bound by the Second Amended Stipulation, Settlement, and this Judgment.

9. The Court finds that the Amended Complaints and Action were filed, and the actions in support thereof were taken, on a good faith basis based upon all publicly available information, and the Settling Parties and their counsel satisfied the requirements of Rule 11 of the Federal Rules of Civil Procedure throughout the course of the litigation.

10. This Court finds that the terms and provisions of the Second Amended Stipulation were entered into by the Settling Parties at arm's length and in good faith, reflect an agreement voluntarily reached after consultation with experienced legal counsel.

11. All objections to the Settlement have been considered by the Court, are found to be without merit, and are therefore overruled. Pursuant to Rule 23 and Rule 23.1 of the Federal Rules of Civil Procedure, the terms and provisions of the Second Amended Stipulation are hereby fully and finally approved as fair, reasonable and adequate, and in the respective best interests of the Settling Parties and the Settlement Class. The Settling Parties and their respective counsel are directed to consummate the Settlement in accordance with the terms and provisions of the Second Amended Stipulation, subject to any conditions in section 8.1 of the Second Amended Stipulation that have not yet occurred or been waived in writing by the Settling Defendants, as provided for in the Second Amended Stipulation.

12. This Action is dismissed in its entirety and with prejudice as against the Settling Defendants. The Settling Parties will bear their own costs, except as otherwise provided in the Second Amended Stipulation.

13. The Lead Plaintiff and every Settlement Class Member, on behalf of themselves, their successors and assigns, and any other person or entity claiming, now or in the future, through or on behalf of them, shall be deemed to have, and by operation of this Judgment shall have, fully, finally, and forever released, relinquished, and discharged all Released Claims (including Unknown Claims) against the Released Parties and shall have covenanted not to sue the Released Parties with respect to all such Released Claims, and shall be permanently barred and enjoined from instituting, commencing or continuing to maintain any such Released Claim, either directly or indirectly or in any other capacity, in any jurisdiction, regardless of whether any such Releasing Party ever seeks or obtains by any means, including, without limitation, by submitting a Proof of Claim and Release, any distribution from the Net Settlement Fund.

14. Each of the Released Parties shall be deemed to have, and by operation of this Judgment shall have, fully, finally, and forever released, relinquished, and discharged each and all of the Lead Plaintiff, Settlement Class Members, and Plaintiff's Counsel from all claims (including Unknown Claims) arising out of, relating to, or in connection with the institution, prosecution, assertion, settlement or resolution of the Action or the Released Claims.

15. In accordance with Paragraph 1.30 of the Second Amended Stipulation, the term "Released Parties" means the Settling Defendants, HSBC Holdings plc, HSBC Institutional Trust Services (Ireland) Limited, HSBC Securities Services (Ireland) Limited and, in the event Lead Plaintiff's motion to amend the Amended Complaint is granted, HSBC Bank USA, N.A., as well as those entities' current and former subsidiaries, parents, principals, direct or indirect affiliates, including without limitation HSBC Bank USA, N.A. and HSBC Bank plc, general or limited partners or partnerships, successors and predecessors, heirs, assigns, officers, directors, agents, employees, fiduciaries, and attorneys. Released Parties shall not include the Non-Settling

Defendants, except for acts or omissions within the course of any former employment with a Settling Defendant.

16. In accordance with Paragraph 1.28 of the Second Amended Stipulation, the term “Released Claims” means all claims, counterclaims, rights, causes of action, or liabilities of every nature and description, whether known or Unknown, whether arising under federal, state, common or foreign law, that were or could have been asserted in this Action or any other action in the United States or elsewhere in any jurisdiction throughout the world in which the Released Parties are domiciled or otherwise subject to jurisdiction, by any Settlement Class Member, that arise out of, are based upon, or related to the allegations, transactions, facts, matters, or occurrences set forth or referred to in the Amended Complaint or the Proposed Amended Complaint concerning or relating to investments in the Fund, or that would be barred by *res judicata* or collateral estoppel if the claims asserted in the Action had been fully litigated on the merits to a final judgment in favor of the party against whom such claims were brought.

17. In accordance with Paragraph 1.41 of the Second Amended Stipulation, the term “Unknown Claims” means any and all Released Claims which any of the Lead Plaintiff, Class Members or Settling Defendants does not know or suspect to exist in his, her or its favor as of the Effective Date and which, if known by him, her or it, might have affected his, her or its decision(s) with respect to the Settlement. With respect to any and all Released Claims, including any Unknown Claims, the parties stipulate and agree that upon the Effective Date, the Lead Plaintiff and the Settling Defendants shall expressly waive, and each Settlement Class Member shall be deemed to have waived, and by operation of this Judgment shall have expressly waived, any and all provisions, rights and benefits conferred by any law of any state of the

United States, any principle of common law or any law of any foreign state, which is similar, comparable, or equivalent to Cal. Civ. Code § 1542, which provides:

A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.

Lead Plaintiff and Settling Defendants acknowledge, and Class Members by operation of law shall be deemed to have acknowledged, that the inclusion of “Unknown Claims” in the definition of Released Claims was separately bargained for and was a key element of the Settlement.

18. All persons and entities who have filed valid and timely requests for exclusion from the Settlement, whose names appear on Exhibit C-1 hereto, which has been and will remain filed under seal, are hereby excluded from the Settlement Class and (to the extent permitted by applicable law) any class that may subsequently be certified in the Action, are not bound by this Judgment, and may not make any claim with respect to or receive any benefit from the Settlement. Such excluded persons and entities shall be permanently barred and enjoined from instituting, commencing or continuing to maintain any Released Claim on behalf of those entities or individuals who are bound by this Judgment.

19. All persons and entities, including without limitation the Non-Settling Defendants, are permanently enjoined, barred and restrained from commencing, prosecuting or asserting any claims or actions for contribution, indemnity, or otherwise against the Settling Defendants seeking, as damages or otherwise, the recovery of all or any part of any liability, judgment or settlement which they pay or are obligated to pay or agree to pay to any member of the Settlement Class as a result of such persons’ participation in any act, facts, statements or omissions that were or could have been alleged in the Action (whether under federal, state or foreign law or otherwise) as claims, cross-claims, counterclaims, third-party claims or otherwise,



whether asserted in the Action in this Court or in any other court, arbitration proceeding, administrative agency or other forum, either in the United States or anywhere else in the world.

20. The Settling Defendants are permanently enjoined, barred and restrained from commencing, prosecuting or asserting any claims or actions for contribution, indemnity, or otherwise against the Non-Settling Defendants seeking, as damages or otherwise, the recovery of all or any part of any liability, judgment or settlement which they pay or are obligated to pay or agree to pay to any member of the Settlement Class as a result of such persons' participation in any act, facts, statements or omissions that were or could have been alleged in the Action (whether under federal, state or foreign law or otherwise) as claims, cross-claims, counterclaims, third-party claims or otherwise, whether asserted in the Action in this Court or in any other court, arbitration proceeding, administrative agency or other forum, either in the United States or anywhere else in the world. For the avoidance of doubt, the Settling Defendants are not barred from asserting any claims or defenses against any of the Non-Settling Defendants seeking to recover or offset all or any part of any liability, judgment or settlement which Settling Defendants pay or are obligated to pay or agree to pay to persons who are not members of the Settlement Class, including those who have requested exclusion from the Settlement Class, or in connection with claims asserted by any Non-Settling Defendant against any Settling Defendant, including the claims asserted by the Fund in the HTIE Litigation.

21. Any final verdict or judgment that may be obtained by Lead Plaintiff—or one or more members of the Settlement Class bound by this Judgment—after trial or other contested dispositive proceeding against the Non-Settling Defendants in the Action shall be reduced by the amount of the consideration paid by the Settling Defendants pursuant to the Second Amended

Stipulation, or the amount that corresponds to the percentage of responsibility of the Settling Defendants, whichever is greater.

22. Neither this Judgment, the Second Amended Stipulation, nor any of the negotiations, documents, proceedings, and acts performed in connection with them shall:

a. be offered or received against any of the Settling Defendants as an admission or evidence of the validity or justiciability of any Released Claim, of any fact alleged by any of the plaintiffs in the Action, or the deficiency of any claim or defense that has been or could have been asserted in the Action or in any litigation;

b. be offered or received against the Settling Defendants as evidence of a presumption, concession or admission with respect to any liability, negligence, fault or wrongdoing, or in any way referred to for any other reason as against any of the Settling Defendants, in any other civil, criminal or administrative action or proceeding, other than such proceedings as may be necessary to effectuate the provisions of the Second Amended Stipulation; provided, however, that if the Second Amended Stipulation is approved by the Court, the Released Parties may refer to it to effectuate the liability protection granted them hereunder, including to support a defense of *res judicata*, collateral estoppel, release, good faith settlement, judgment bar or reduction or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim;

c. be construed against the Settling Defendants or the Settlement Class as an admission or concession that the consideration to be given hereunder represents the amount which could be or would have been recovered after trial;

d. be construed as, or received in evidence as, an admission, concession or presumption against the Lead Plaintiff or the Settlement Class that any of the claims are without

merit or that damages recoverable under any of the complaints filed in the Action would not have exceeded the Gross Settlement Fund; or

e. be used by any of the Settling Parties for any purpose in any trial in the Action in the event the Settlement does not become Final.

23. Notwithstanding the provisions of Paragraph 22 above, the Second Amended Stipulation and the terms of the Settlement may be offered or received into any action or proceeding: (1) arising under the Second Amended Stipulation or arising out of this Judgment, (2) where the releases provided pursuant to the Second Amended Stipulation may serve as a bar to recovery, or (3) to determine the availability, scope, or extent of insurance coverage for the sums expended for the Settlement and defense of the Action.

24. The Released Parties may file the Second Amended Stipulation or this Judgment in any action that may be brought against them in order to support a defense or counterclaim based on principles of *res judicata*, collateral estoppel, full faith and credit, release, good faith settlement, judgment bar or reduction or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim.

25. The Plan of Allocation is approved as fair and reasonable, and Plaintiff's Counsel and the Settlement Administrator are directed to administer the Settlement in accordance with its terms and provisions, subject to any conditions in section 8.1 of the Second Amended Stipulation that have not yet occurred or been waived in writing by the Settling Defendants, as provided for in the Second Amended Stipulation.

26. A separate order shall be entered to approve the Plan of Allocation, the applications as allowed by the Court by Plaintiff's Counsel for attorneys' fees, reimbursement of costs and expenses, and the application by Lead Plaintiff for an award for his time, expense and

efforts incurred in the prosecution of the Action. The finality of this Judgment shall not be affected, in any manner, by rulings that the Court may make on the foregoing applications, or on the Plan of Allocation, including, without limitation, adjustments to Individual Claim Amounts.

27. Exclusive jurisdiction is hereby retained over the Settling Parties and the Settlement Class Members for a period of six (6) years regarding all matters relating to the Action, including (1) the administration, interpretation, implementation or enforcement of the Second Amended Stipulation and this Judgment and any proceedings relating thereto; (2) disbursement of the Net Settlement Fund; and (3) any application for fees and expenses incurred in connection with administering and disbursing the settlement proceeds to the Settlement Class Members.

28. In the event that the Settlement does not become effective in accordance with the terms of the Second Amended Stipulation, then this Judgment shall be vacated *nunc pro tunc* and, in such event, all orders entered, including those certifying the Settlement Class, and releases delivered in connection herewith shall be null and void to the extent provided by and in accordance with the Second Amended Stipulation.

29. Without further order of the Court, the Settling Parties may agree to reasonable extensions of time to carry out any of the provisions of the Second Amended Stipulation.

30. The provisions of this Judgment constitute a full and complete adjudication of the matter considered and adjudged herein. There is no just reason for delay in the entry of this Judgment and immediate entry by the Clerk of the Court is directed pursuant to Rule 54(b) of the Federal Rules of Civil Procedure.

SO ORDERED:

Dated: \_\_\_\_\_, 2012

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RICHARD M. BERMAN, U.S.D.J.