

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

COMMODITY FUTURES TRADING COMMISSION,

Plaintiff,

-against-

EDDY ALEXANDRE and  
EMINIFX, INC.,

Defendants.

22 Civ. 3822 (VEC)

**NOTICE OF THE RECEIVER’S MOTION FOR ENTRY OF AN ORDER  
APPROVING (I) THE RECEIVER’S DISTRIBUTION PLAN; (II) THE  
DETERMINATION OF ALLOWED USER CLAIMS; (III) NOTICE OF  
DISTRIBUTION PLAN; AND (IV) AUTHORITY TO PURSUE CAUSES OF ACTION**

**PLEASE TAKE NOTICE** that David A. Castleman, as Receiver (the “**Receiver**”), will move before the Honorable Valerie E. Caproni, United States District Judge for the United States District Court for the Southern District of New York (the “**Court**”), located at the Thurgood Marshall United States Courthouse, 40 Foley Square, New York, NY 10007 for entry of an Order Approving (i) the Receiver’s Distribution Plan; (ii) the Determination of Allowed User Claims; (iii) Notice of Distribution Plan; and (iv) Authority to Pursue Causes of Action (the “**Motion**”).<sup>1</sup>

**PLEASE TAKE FURTHER NOTICE** that, pursuant to the Receiver’s Request for Approval of Schedule to File Plan of Distribution and Responses, So Ordered by the Court on July 17, 2024 [Dkt. 359], the following response deadlines for the Motion shall apply:

**August 26, 2024 (“User Response Deadline”):** The deadline by which all EminiFX Users’ and non-User claimants’ responses must be actually received by the Receiver. Users shall submit any responses via the User Portal. Any non-User claimant who wishes to respond may submit a response to the Receiver directly, via e-mail to [EminiFX@stretto.com], so long as it is received by the User

<sup>1</sup> Capitalized terms not otherwise defined herein shall have the meanings ascribed to them by the Motion.

Response Deadline, and the Receiver will include such response when filing the User Responses with the Court. **EminiFX Users who do not submit responses on the User Portal as instructed will have their responses disregarded and not included in the Receiver’s subsequent submission to the Court.**

**September 10, 2024:** The deadline for the CFTC to file a response to the Plan of Distribution and Motion (the “**CFTC Response**”) and for Mr. Alexandre to mail his response to both the Court and the Receiver (the “**Alexandre Response**”). **The Alexandre Response must be mailed to the Receiver at David Castleman, c/o Otterbourg P.C., 230 Park Avenue, New York, NY 10169, with a postmark of September 10, 2024 or earlier.** The Receiver will organize and file with the Court the User Responses that were received prior to the User Response Deadline.

**September 27, 2024:** The deadline for the Receiver, the CFTC, or Mr. Alexandre to file any reply to the User Responses, the CFTC Response and/or the Alexandre Response. **Any Alexandre Reply must be mailed to the Receiver at David Castleman, c/o Otterbourg P.C., 230 Park Avenue, New York, NY 10169, with a postmark of September 27, 2024 or earlier.**

**PLEASE TAKE FURTHER NOTICE** that with respect to non-parties, unless such non-party has made a motion to intervene, and that motion has been granted by the Court, **non-parties should not send any inquiries concerning the Motion directly to the Court or file them on the docket.** [*Cf.* Dkts. 174, 176.]

*[The Notice continues on the following page.]*

**PLEASE TAKE FURTHER NOTICE** that, in the absence of any timely written opposition served as set forth above, the Court may approve the proposed Order granting the Motion and approving (i) the Receiver's Distribution Plan; (ii) the Determination of Allowed User Claims; (iii) Notice of Distribution Plan; and (iv) Authority to Pursue Causes of Action.

Dated: New York, New York  
August 9, 2024

**OTTERBOURG P.C.**

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*Attorneys for David A. Castleman, as  
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### CERTIFICATE OF SERVICE

I hereby certify that on August 9, 2024, I electronically filed the Receiver's Notice of Motion and Motion for entry of an Order approving (i) the Receiver's Distribution Plan; (ii) the Determination of Allowed User Claims; (iii) Notice of Distribution Plan; and (iv) Authority to Pursue Causes of Action (the "**Motion**"); Memorandum of Law in Support of the Motion; the Affidavit of David A. Castleman as Receiver dated August 9, 2024, to which the Distribution Plan is annexed as an exhibit, and the Proposed Order granting the Motion, with the Clerk of the Court using the Court's CM/ECF system, which shall send notice to all counsel of record. I also served, or caused to be served, copies of the foregoing (1) on Defendant Eddy Alexandre by U.S. mail to Eddy Alexandre, Reg. No. 00712-51, FCC Allenwood-Low, P.O. Box 1000, White Deer, PA 17887; (2) on Users of EminiFX, Inc. by email directly to each User and by posting on the EminiFX Receivership Website; (3) on nonparty Clarelle Dieuveuil by U.S. mail [Peckar & Abramson, P.C., 1325 6th Ave., 10th floor, New York, NY 10019] and email [BWaller@pecklaw.com] to her counsel, Brian D. Waller; and (4) on all other non-settled claimants and governmental authorities, as appropriate, including but not limited to the Internal Revenue Service, by U.S. mail.

Dated: New York, New York  
August 9, 2024

/s/ Jennifer S. Feeney  
Jennifer S. Feeney

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SOUTHERN DISTRICT OF NEW YORK**

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DISTRIBUTION PLAN; (II) THE DETERMINATION OF ALLOWED  
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Pursuant to this Court's *Consent Order for Preliminary Injunction* ("**Consent Order**") [Dkt. 56],<sup>1</sup> David A. Castleman, the Court-appointed receiver (the "**Receiver**") over Defendant EminiFX, Inc. ("**EminiFX**") and certain assets of Defendant Eddy Alexandre ("**Alexandre**"), through his counsel, respectfully submits this memorandum of law in support of his motion (the "**Motion**"), for entry of an Order, in substantially the form annexed hereto (the "**Proposed Order**"), approving (i) the Receiver's proposed distribution plan (the "**Distribution Plan**");<sup>2</sup> (ii) the determination of allowed User claims; (iii) notice of distribution plan; and (iv) authority to pursue causes of action.

### **PRELIMINARY STATEMENT**

Commencing in late 2021 and continuing for the next eight months, EminiFX operated as a Ponzi scheme, receiving over \$260 million in contributions from a single class of investors (*i.e.*, EminiFX Users) into a pool of commingled funds, paying those investors between 5.00% and 9.99% in returns each and every week (the "**ROI**") (equivalent to 11x to 140x annually), and using that pool of commingled funds to satisfy over \$30 million in investor withdrawals. Since the Receiver's appointment, he has secured and liquidated over \$150 million in EminiFX assets, all of which were funded solely by investor contributions. The Receiver has also worked to verify as many actual investor deposits and withdrawals as possible given the poor state of EminiFX records. In this Motion, the Receiver proposes the Distribution Plan, which he respectfully submits is fair and equitable under the circumstances, and which sets forth how the Receiver intends to distribute the recovered funds to investors who made contributions to EminiFX and to satisfy any other liabilities of the Receivership. That EminiFX's operations were consistent with the key

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<sup>1</sup> References to "[Dkt. \_]" are to docket entries in the above-captioned action unless otherwise specified.

<sup>2</sup> A copy of the Distribution Plan is annexed as Exhibit 1 to the affidavit of David Castleman, as Receiver, in support of the Motion, submitted contemporaneously herewith. Defined terms used but not defined herein shall have the meaning ascribed in the Distribution Plan.

features of a Ponzi scheme is central to the Distribution Plan, as that informs the Receiver's treatment of investor claims, the method of distribution, and his request to pursue certain affirmative claims.<sup>3</sup>

Specifically, the Receiver is seeking to define allowed investor claims based only upon each investor's actual deposits into, and withdrawals from, EminiFX. The Receiver is seeking to exclude (i) the ROI, representing fictitious profits not related to any actual investing activity, (ii) recruitment and multilevel marketing bonuses, and (iii) internal transfers from the definition of an investor's claim. If the Receiver were to give credit for ROI and bonuses in an investor's claim, it would only further the EminiFX scheme by paying such ROI and bonuses (as a portion of a claim) to some investors using the deposits of other investors. While ROI, bonuses, and internal transfers appeared on the balances shown to EminiFX investors when they logged onto their online accounts, they do not represent actual funds into EminiFX and thus should not be included in investor claims.

The Receiver has determined that the most equitable approach for a *pro rata* distribution is the "rising tide" method ("**Rising Tide**"), which calculates claims based on pre-receivership deposits, and treats pre-receivership withdrawals as distributions on such claim. This treatment acknowledges that pre-receivership withdrawals were paid from the pool of commingled investor deposits—the same pool of funds that will be used by the Receiver to make distributions per the Distribution Plan. Under the Rising Tide method, the *pro rata* distribution percentage (as set in connection with each distribution contemplated under the Distribution Plan, the "**Rising Tide Percentage**") will be higher than such percentage under a "**Net Investment**" distribution method

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<sup>3</sup> The Receiver is seeking only the relief requested in this Motion and is not seeking to prove or disprove the claims and defenses asserted by the CFTC or Alexandre in this case.

(where withdrawals are subtracted from deposits to determine a net claim) for the same number of dollars distributed. That difference is especially important to the vast majority of investors who had zero withdrawals, as those investors will receive higher distributions under Rising Tide than under a Net Investment method. Courts in the Second Circuit and around the country have generally recognized that Rising Tide is the proper method of distribution to investors when the underlying investment is a Ponzi scheme.

The Receiver also seeks in this Motion a request to pursue certain claims against individuals or entities that received transfers from EminiFX in excess of the value provided to EminiFX, and to offer settlements to those recipients on terms that presume their good faith. As the Second Circuit established in the *Madoff* case (a Ponzi scheme with similar attributes to EminiFX, although on a much longer time horizon with less extreme returns), all transfers out of a Ponzi scheme are presumed to be fraudulent, which greatly simplifies the analysis of whether such transfers may be recovered as voidable transactions. *See Picard v. Citibank, N.A. (In re Bernard L. Madoff Inv. Sec. LLC)*, 12 F.4th 171, 181 (2d Cir. 2021). The Receiver therefore has a good faith basis to pursue claims against the recipients of such transfers, and to offer those recipients settlements.

The Distribution Plan also contains a number of additional elements that are necessary to effectuate its terms. Because distributions occur over time as the Rising Tide Percentage is periodically increased, the Receiver proposes to create a separate convenience class for those investors who deposited \$1,000 or less, under which they will get a one-time distribution that is higher than the initial Rising Tide Percentage but may be lower than the Final Rising Tide percentage, to avoid as many distributions under \$50 as possible. The Distribution Plan also recognizes the super-priority of tax claims under federal law. Finally, the Distribution Plan also

includes procedures that may affect a small number of investors, including, but not limited to, those governing subordination, liens on distributions, and deceased claimants.

Shortly after this proposed Distribution Plan is filed with the Court, the Receiver will publish the Distribution Plan on the Receivership website and email it to all EminiFX investors and certain other interested parties (by email or regular mail), so that they may provide feedback. The Receiver has set up a function on the User Portal (accessible to all investors) that will, for a limited time, allow EminiFX investors to provide feedback. The Receiver has made clear to investors that such feedback will be anonymous, and that the content of an investor's feedback will not impact his or her distribution. The Receiver will assemble that feedback and submit it to the Court on the same date that other response briefs to the Motion are due.

The Receiver cannot at this stage determine how much each investor is going to receive, both initially and over time, as the Rising Tide Percentage will be periodically increased under the Distribution Plan. However, most investors will receive a partial refund of their investments, and that refund will likely grow over time as the Receiver increases the Rising Tide Percentage. Investors who had substantial withdrawals may not receive a distribution, but equity and fairness are still preserved because the money they received when they made these withdrawals came from the same pot of commingled funds that will be used for distributions to other investors. Given that EminiFX was operated as a Ponzi scheme, and the size and circumstances of the deposits and withdrawals into EminiFX, the Receiver respectfully submits that the proposed treatment of claims and the proposed Distribution Plan are fair, reasonable, and in the best interest of the estate.

## BACKGROUND<sup>4</sup>

### **I. EminiFX’s Pre-Receivership Operations**

#### **A. EminiFX Overview**

EminiFX was established as a “multi-level” investment club on or about September 2021, with a stated purpose of providing users of the EminiFX system (“Users”)<sup>5</sup> “with an affordable solution that offers easy access to cryptocurrency and Forex trading.” [Castleman Aff. ¶¶ 28, 36; Castleman Aff. Ex. 5 (Feb. 2022 Compensation Plan, at 2).] Users could set up accounts through the site, and would purportedly earn ROI of between 5.00% and 9.99% per week (though, as discussed below, this ROI was not based on actual investment activity). [Castleman Aff. ¶ 36.] Generally, Users were recruited to EminiFX by other Users, and were awarded commission bonuses based on a User’s recruits, plus all their recruits, and so on down for each level. [*Id.*]

#### **B. Deposits and Withdrawals**

**User Deposits.** Users would fund their EminiFX accounts using several methods. Most commonly, Users would contribute US Dollars directly into one of EminiFX’s primary bank accounts, maintained at TD Bank or Bank of America, where those funds were commingled with other User deposits. [*Id.* ¶¶ 37-38.] Bank of America froze EminiFX’s account on or about March 14, 2022, at which time just over \$27 million had been deposited there by EminiFX Users. [*Id.* ¶ 37.] Around that time, just over \$51 million had been deposited into the TD Bank account, including over \$1 million deposited directly into Alexandre’s personal TD Bank account. [*Id.*]

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<sup>4</sup> As explained herein, EminiFX did not maintain a general ledger of any kind, nor did it issue account statements to Users. Although the Receiver was able to recover a substantial number of records from EminiFX and from certain third-parties (largely financial institutions where EminiFX maintained accounts), there were significant deficiencies in the maintenance of records. The Receiver and his team undertook a detailed forensic investigation of EminiFX’s pre-receivership financial condition, the result of which was the *Financial Condition Report of EminiFX, Inc.* (“**Financial Condition Report**”) [Dkt. 199], filed May 16, 2023.

<sup>5</sup> The term “investor” is used interchangeably with the defined term “User” herein and in the Distribution Plan.

The second primary method was by sending funds to EminiFX via the offshore CoinPayments system, in which EminiFX maintained a sizeable account—over \$180 million in contributions were made to CoinPayments by EminiFX Users. [*Id.* ¶ 41.] After the suspension of EminiFX’s Bank of America account, CoinPayments became the most common method for User contributions. [*Id.*] As was true of EminiFX’s bank accounts, deposits made through CoinPayments were also commingled. [*Id.* ¶ 42.] In addition to these contribution methods, EminiFX also maintained three separate CashApp accounts that received User deposits totaling \$1.4 million. [*Id.* ¶ 43.] Starting especially in late March 2022, there was a substantial increase in funding of User accounts from deposits of cash (currency) at the physical office of EminiFX located on 34th Street in Manhattan. [*Id.* ¶ 40.]

**User Withdrawals.** Users were generally able to withdraw funds based on their total account value. [*Id.* ¶ 45.] Because that value included purported ROI and/or bonuses (discussed further below), a User could withdraw funds in excess of their total net contributions into the EminiFX system, and some did so. [*Id.*] The vast majority (98%) of these withdrawal transactions were completed via CoinPayments. [*Id.* ¶ 48.] By the time the Receiver was appointed, a total of at least \$228 million in net contributions (contributions less withdrawals) had been made into the EminiFX system by Users. [*See* Castleman Aff. Ex. 9 (User Withdrawals and Net Contributions Chart).]

**Internal Transfers.** Users were also able to transfer funds to other Users though the EminiFX System. Similar to withdrawals, because a User’s total account value included purported ROI and/or bonuses, a User could transfer funds in excess of their total net contributions into the EminiFX System. [Castleman Aff. ¶¶ 55-56.]



C. ROI and Bonuses Accrued to Users

Beginning on October 22, 2021, Users' account balances would increase by a weekly ROI accrual, which was a fixed number between 5.00% and 9.99%, and purportedly represented a "share [in] profits . . . from prior week gains." [*Id.* ¶ 50; Castleman Aff. Ex. 5 (Feb. 2022 Compensation Plan, at 6).] Over time, the total amount of ROI in EminiFX's "earnings" table accrued each week, reaching a total amount accrued of over \$262 million by the time of the Receiver's appointment in May 2022. [Castleman Aff. ¶ 50.]

In addition to ROI, several types of bonuses were also credited to Users based on the referral of additional Users to the platform, reflecting the multi-level nature of EminiFX. A User would be considered a "sponsor" of a User they referred (the "affiliate"), over time creating a complex "sponsor tree"—with Alexandre at the top. [*Id.* ¶ 53.] Bonuses were awarded for direct referral of new affiliates, indirect referrals by a sponsor's affiliates, and when affiliates earned ROI, among other scenarios. [*Id.* ¶ 53.] Ultimately, the total amount accrued to Users in referral bonuses was \$56.6 million. [*Id.* ¶ 54.]

As a result of ROI and bonuses, Users' total stated account values, as reflected in the EminiFX system, far outpaced the results of EminiFX's actual, limited investments. While EminiFX incurred *net decreases*—exceeding \$49 million—in the marked to market values of its accounts over the course of its operation, Users were still credited "ROI" and bonuses in excess of \$319 million. [*Id.* ¶ 77.] If EminiFX was not shutdown when it was, by virtue of the fictitious ROI and awarding of bonuses, this differential would have continued to grow exponentially, and the Receiver's models indicate that, at the 5.00% to 9.99% returns offered, the ROI paid through the date of this Motion would be in the hundreds of billions or even trillions of dollars. [*Id.* ¶ 78.]

D. Performance of Investments and Holdings

The net decreases to the marked to market value of EminiFX's accounts are a result of several factors that, when taken cumulatively, evidence a complete disconnect between Users' purported earnings and EminiFX's actual investment activity. [Castleman Aff. Ex. 13 (Changes in Marked to Market Increases and Decreases of EminiFX Holdings).]

**Cryptocurrency Exposure.** Users contributions via CoinPayments were made in Bitcoin. While Users generally saw an equivalent increase in the US Dollar value of their User account when contributing with Bitcoin, no such conversion from Bitcoin to US Dollars actually occurred. [Castleman Aff. ¶ 67.] As a result, EminiFX's Bitcoin balance accumulated over time, increasing its exposure to Bitcoin's volatile market price. [*Id.* ¶ 68.] The price of Bitcoin decreased over 57% from November 10, 2021 to May 12, 2022, resulting in a cumulative \$40 million decline in value of EminiFX's CoinPayments account by the time of the Receiver's appointment. [*Id.* ¶ 68.] EminiFX also invested small amounts in the cryptocurrency exchanges Kot4X and Gemini, both of which resulted in additional losses of approximately \$550,000 in the aggregate. [*Id.* ¶ 70.]

**Interactive Brokers Investment.** Alexandre maintained an Interactive Brokers account in his own name, rather than in EminiFX's name, and made contributions to that account from his personal TD Bank account. [*Id.* ¶ 60.] Of the \$9,040,000 transferred from the Alexandre TD Bank account to the Interactive Brokers account, at least \$9,010,000 is directly traceable to EminiFX investor deposits. [*Id.*] By the time the Receiver liquidated the account (discussed further below), it had lost over \$7.2 million—equivalent to about 80% of the total amount of EminiFX funds deposited into it. [*Id.* ¶ 62.]

**Real Estate Investments.** In the weeks before the Receiver was appointed, EminiFX entered into 48 separate contracts to purchase various properties in Long Island, for a total purchase price of \$24.2 million, with 46 of those being at foreclosure auctions in Nassau and Suffolk County

(“**Foreclosure Properties**”). [*Id.* ¶ 64.] EminiFX paid deposits of just over \$2.5 million in the aggregate for those properties. [*Id.*] None of these contracts had closed by the time the Receiver was appointed, and one had already been cancelled with the \$50,000 deposit being returned to EminiFX on May 9, 2022. [*Id.* ¶¶ 65-66.]

## **II. Enforcement Actions Shut Down EminiFX in May 2022**

### **A. The CFTC Enforcement Action**

On May 11, 2022, the Commodities Futures Trading Commission (“**CFTC**”) filed a civil complaint (the “**Complaint**”) against Alexandre and EminiFX (collectively, “**Defendants**”) based on allegations arising from the operation of EminiFX. Specifically, the complaint in the Criminal Action alleged that EminiFX was operated as a “Ponzi-like” scheme, by which Alexandre and others pooled funds from members of the general public and promised them ROI to provide the “false” impression that EminiFX was profitably trading their contributions. Instead, the complaint alleges, Alexandre misappropriated over \$14.7 million of investors’ funds for his personal accounts, and racked up losses of \$6 million.

Contemporaneously with the Complaint, the CFTC filed a motion for an *ex parte* statutory restraining order (“**SRO**”). [Dkt. 5-6, granted the same day at Dkt. 9.] Among other things, the SRO froze certain of Defendants’ assets, allowed the Commission access to certain of Defendants’ records, and, as discussed further below, appointed the Receiver. [Dkt. 9.]

### **B. The Appointment of the Receiver**

Under the SRO entered on May 11, 2022, the Receiver was appointed with full powers of an equity receiver over EminiFX and over “all customer funds and property and other assets traceable to customers in the possession of or under the control of Eddy Alexandre.” [SRO ¶ 30, Dkt. 9.] Paragraph 31 of the SRO further enumerated specific authority afforded the Receiver,

including, but not limited to, the assumption of “full control over the Receivership Defendants” and “exclusive custody, control, and possession of the Receivership Estate.” [*Id.* ¶ 31.]

Two days before the expiration of the SRO, on June 15, 2022 the Court entered the Consent Order [Dkt. 56], which “shall remain in full force and effect until the final trial of this case, or until further order of this Court.” [Consent Order ¶ 59.]<sup>6</sup> The Court also appointed the Receiver, who was previously appointed as Temporary Receiver under the SRO, with full powers of a federal equity receiver [*Id.* ¶ 37], as well as:

all powers, authorities, rights and privileges heretofore possessed by the officers, directors, managers, managing members, and general and limited partners of the Defendants under applicable state and federal law, by the governing charters, by-laws, articles and/or agreements in addition to all powers and authority of a receiver at equity, and all powers conferred upon a receiver by the provisions of 28 U.S.C. §§ 754, 959 & 1692, and Fed R. Civ. P. 66; and all specific powers as set forth in Paragraph 31 of the SRO.

[*Id.* ¶ 37.]

The Court further granted the Receiver authority to demand turnover of assets in Alexandre’s name based on a reasonable, good-faith belief that such assets are traceable to EminiFX customers, to be administered by the Receiver in a protected “Alexandre Assets” segregated account, until this Court could make a final determination as to whether such assets are traceable, or not, to EminiFX customers. [*Id.* ¶ 38.]

C. Parallel Criminal Action

On May 11, 2022, the United States Attorney for the Southern District of New York (“USAO”) filed a sealed criminal complaint against Alexandre on one count of Commodities Fraud and one count of Wire Fraud, both based on the same conduct alleged in the Complaint in

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<sup>6</sup> On February 15, 2024, Alexandre’s then-counsel filed a letter, stating Mr. Alexandre no longer agreed to the CFTC’s proposed consent order, and requesting permission to withdraw as counsel [Dkt. 257]. The Court granted counsel’s motion, and Alexandre has since proceeded *pro se* in this action [*see* Dkt. 261].

the civil action. See *United States v. Alexandre*, No. 22 Cr. 326 (JPC), Complaint, Dkt. 1 (S.D.N.Y. filed May 11, 2022) (the “**Criminal Action**”). The FBI arrested Alexandre the following day, on May 12, 2022. On February 10, 2023, Alexandre pled guilty to one count of Commodities Fraud and, as a part of the plea agreement, executed a Consent Preliminary Order of Forfeiture (“**Forfeiture Order**”). *United States v. Alexandre*, No. 22 Cr. 326 (JPC), Dkt. 74. In connection with the Forfeiture Order, Alexandre agreed to forfeit \$248,829,276 (“**Money Judgment**”), “representing the amount of proceeds traceable to the commission of the offence charged” [Forfeiture Order, at 2-3, 22-cr-00326, Dkt. 74]. The Forfeiture Order further states that “[a]ll assets distributed to the victims by the Receiver in the CFTC Action that were obtained from the Defendant and EminiFX shall be applied towards the satisfaction of the Money Judgment.” [Forfeiture Order ¶ 11, 22-cr-00326, Dkt. 74.] Alexandre surrendered to begin his term of incarceration on or about August 28, 2023.

### **III. The Receiver’s Recovery and Liquidation of Assets**

By the end of 2022, the Receiver had recovered nearly \$61 million in cash<sup>7</sup> from frozen accounts and substantial amounts of cryptocurrency. [Castleman Aff. ¶ 13.] The Receiver liquidated the cryptocurrency in his possession between January and April 2023 in accordance with the Court-approved liquidation procedure [Dkt. 184], which brought net proceeds of over \$90 million into the estate. [Castleman Aff. ¶ 13.] In addition to vehicles and office property liquidated, the net total of turned over assets, after liquidation, was just over \$151 million. [*Id.*]

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<sup>7</sup> As noted above, a portion of the assets recovered were segregated in accordance with the Consent Order as “Alexandre Assets.” On May 9, 2024, the Court So Ordered a stipulation between the Receiver, the CFTC, and Alexandre [Dkt. 311]. As a result, \$9,470,813.35 in Alexandre Assets was deemed traceable to EminiFX Users and turned over the general Receivership estate on that day [Dkt. 370 Ex. 1]. An additional \$76,708.95 that was set aside as a payroll reserve was released by Order entered July 3, 2024 [Dkt. 354].

Following his appointment in 2022, the Receiver also pursued litigation related to EminiFX's nascent real estate investment portfolio, nearly all of which had been settled by 2023 [*Id.* ¶ 14], and the one remaining issue resolved in the claims process in 2024. These efforts yielded a net gain to the Receivership estate of \$3.2 million. [*Id.*] The Receiver is continuing to evaluate several potential actions against third parties that may result in additional recoveries, including those against “Net Winners,” as contemplated in the Distribution Plan and discussed further below. [*Id.* ¶ 16.]

The \$153 million in cash under management is the primary source of funds expected to be available for distribution under the Distribution Plan, along with any additional recoveries received in connection with contemplated litigation. [*Id.* ¶¶ 15-16.] All of the assets expected to be distributed are directly or indirectly traceable to EminiFX User deposits, plus any interest earned thereon while under the Receiver's management.

#### **IV. The EminiFX User Claims and Non-User Claims Process**

As noted above, there were significant deficiencies in EminiFX's maintenance of records. There was no evidence uncovered of regularly issued User account statements, though the Receiver was able to recover an EminiFX MySQL database (“**Database**”) that was used to maintain User account records. [*Id.* ¶¶ 23, 25.] Absent detailed records, to better determine the Users that may be entitled to an eventual distribution, and to establish bar dates and procedures to determine the identity of “**Non-Users**”—that is, individuals or entities who have a claim against EminiFX not based on their status as a User—and the amount of their Non-User Claims, on August 10, 2023, the Receiver filed a motion seeking the approval of procedures (“**Claims Procedures**”) for the verification of User transactions, the establishment of bar dates for Non-Users to assert claims, and a review process for each. [*Id.* ¶¶ 11.] On August 29, 2023, the Court approved the

Claims Procedures [Dkt. 228] and the Receiver implemented the process by which User and Non-User Claims could be fixed for eventual distribution under the terms of a plan approved by this Court.

A. The EminiFX User Claims

Combining the various bank and cryptocurrency financial data with records from the Database allowed the Receiver and his team to construct a ledger (“**Ledger**”) with sufficient reliability to assess the overall financial condition of EminiFX on a weekly basis to coincide with the ROI schedule and to ascertain contributions and withdrawals made to and from User accounts. [Castleman Aff. ¶ 9.] Using the Ledger, the Receiver and his team developed a Portal, available to all Users, which displayed the actual cash and Bitcoin deposits and withdrawals associated with each User’s EminiFX account. [*Id.* ¶ 11]. The Claims Procedures provided an opportunity for Users to review the transactions attributed to their account based on the Ledger, and to provide additional information within prescribed parameters. The deadline for verifying, disputing or adding transactions was February 26, 2024. While Users could continue to access the Portal, they were no longer able to verify, add and/or update transactions as of March 1, 2024 (the deadline plus a four-day grace period; set as the “Record Date” in the Distribution Plan).

By the close of the Portal, approximately 25,758 Users had submitted their transactions.<sup>8</sup> Of that total 5,618 EminiFX Users disputed 11,778 transactions identified by the Receiver, which is around 10% of the total EminiFX User transactions submitted by Users (“**Disputed Transactions**”). The Receiver has since directed his team to focus their forensic efforts on reviewing and addressing all Disputed Transactions. The Receiver expects this process to

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<sup>8</sup> That is, the User reviewed all of their transactions and have either verified or disputed transactions (including adding transactions) and then submitted such actions for review by the Receiver.

conclude this initial review around October 2024. [*Id.*]. As discussed further below, at that time, the Receiver expects to file a schedule of Disputed Transactions with the Court, which will begin the process of fixing any then-unresolved User transactions.

B. The Non-User Claims

As noted above, the Claims Procedures also provide an opportunity for Non-User Claimants to complete and serve a Proof of Claim. The general Non-User Claim bar date was October 30, 2023 and the governmental bar date was December 27, 2023. The Internal Revenue Service is not subject to the Claims Procedures; as discussed below, their claims are subject to separate treatment under the proposed Distribution Plan.

There were eight non-duplicative Proofs of Claim submitted by Non-Users in accordance with the Claims Procedures [*Id.* ¶ 91.] As of the date of this Motion, all but one of those Proofs of Claim has been resolved and satisfied. [*Id.*] The details of these settlements and the unresolved Non-User Claim, asserted by an insider and subject to the Receiver's ongoing investigation, are set forth in the Non-User Claims Report, filed at [Dkt. 369], and are summarized below.

**SUMMARY OF DISTRIBUTION PLAN, CLAIMS PROCESS,  
AND NET WINNER PROCEDURES**

I. **Distribution Plan Overview**

A. The Distribution Plan's Classification and Treatment of Claims

The Distribution Plan sets forth six classes and one sub-class of EminiFX Claims eligible to receive distributions, as follows:

|           |                               |
|-----------|-------------------------------|
| Class 1:  | Administrative Claims         |
| Class 2:  | Tax Claims                    |
| Class 3:  | User Claims                   |
| Class 3A: | User Convenience Class Claims |
| Class 4:  | Other Claims                  |
| Class 5:  | Subordinated Claims           |
| Class 6:  | Equity Interests              |



Class 1, “Administrative Claims,” consists of compensation claims by the Receiver and his retained professionals, as well as any other EminiFX Claims asserting an entitlement to priority payment in connection with the administration of the Receivership Assets or otherwise on the basis that it arises or is deemed to arise after the commencement of the CFTC Enforcement Action. Holders of Administrative Claims are entitled to receive the full amount of the Administrative Claim in cash from time to time as and when due pursuant to any applicable orders of this Court, except to the extent that such Holder agrees to less favorable treatment. [Plan, at 11.]

Class 2 consists of EminiFX Claims held by taxing authorities. [*Id.*] Holders of these “Tax Claims,” to the extent allowed, are entitled to receive the full amount of such Allowed Tax Claim in cash from time to time as and when due pursuant to any applicable orders of this Court, except to the extent that such Holder agrees to less favorable treatment. At the time of any distribution, to the extent that the amount of the Tax Claims has not been determined or otherwise Allowed, the Receiver will establish a reserve—in an amount determined in his sole discretion after consultation with his advisors—to be a conservative estimate of potential tax liabilities of EminiFX and the EminiFX QSF.

Class 3 consists of all Users that have EminiFX Claims that are based on an alleged investment in the investment club operated by EminiFX, or “User Claims.” [*Id.* at 6, 11.] The Allowed amount of a User Claim is based on the value of that User’s verified deposits (“**Verified Deposit Amount**”), as determined in connection with the Receiver’s ongoing review of User transactions under the Claims Procedures. User claims will *not* reflect ROI, bonuses, or internal transfers; as explained above, these were not reflective of the payment or transfer of actual funds. Additionally, to the extent deposits were made in BTC, for the purpose of calculating a User Claim amount, those values will be converted to US Dollars based on the closing price the day the

transaction was completed. Distributions based on Allowed User Claims will be based on the Rising Tide methodology. This distribution approach is explained further below, which will be a type of a *pro rata* distribution that will consist of an initial Rising Tide percentage and expected (but not guaranteed) increases and supplemental payments over time.

Class 3A, a subset of Class 3 User Claims, consists of all Users that have Allowed User Claims of \$1,000 or less (*i.e.*, that deposited less than that sum into EminiFX). These Users will receive a single distribution consisting of a fixed percentage, to be set by the Receiver. That percentage will be higher than the initial Rising Tide percentage but will likely not be subject to increases, in order to avoid the administrative burden of making very small payments.

Class 4, “Other Claims,” will consist of Non-User Claims not treated in another class that are not treated in another class (*e.g.*, taxing authorities or Holders of Subordinated Claims). [*Id.* at 12.] The Distribution Plan proposes to give these Claimants *pari passu* treatment with Class 3 User Claims (*i.e.*, they will receive distributions at the same time and based on the same Rising Tide percentage). And like User Claims, which exclude false profits in the form of ROI and bonuses, the Distribution Plan provides that any sums based on consequential, indirect or lost profits, are to be treated as Subordinated Claims, under Class 5, which will receive a distribution, if at all, only after the satisfaction in full of prior classes.

Class 5, Subordinated Claims, will consist of any EminiFX Claim, or any portion thereof, that is (i) subordinated in accordance with a written agreement with the Receiver; (ii) any fine or penalty levied by the CFTC in connection with the CFTC Enforcement Action, unless the Court orders otherwise; or (iii) that contains consequential or indirect damages, or lost profits, or should otherwise be a subordinated in the interest of equity, as described in the Distribution Plan. [*Id.*] Subordinated Claims are not expected to receive a distribution, as they are not entitled to a

distribution until all other Claimants receive a distribution and it is not expected that other Claimants will be paid 100% of their Allowed Claims.

Class 6, Equity Claims, consist of the equity interests of Alexandre, which will not be entitled to any distribution and which will be extinguished upon the dissolution of EminiFX. [*Id.* at 13.]

B. Rising Tide Method for EminiFX User Refunds

As noted above, the Distribution Plan entails calculating distributions to Users based on their Allowed User Claims in accordance with the Rising Tide method, which is a form of a *pro rata* distribution. Under the Rising Tide approach, ““withdrawals are considered part of the distribution received by an investor and so are subtracted from the amount of the receivership assets to which he would be entitled had there been no withdrawals.”” *S.E.C. v. Callahan*, 193 F. Supp. 3d 177, 198 (E.D.N.Y. 2016) (quoting *S.E.C. v. Huber*, 702 F.3d 903, 905 (7th Cir. 2012)); *see also S.E.C. v. Varacchi*, 2021 WL 10361074, at \*13 (D. Conn. July 30, 2021). Here, distributions under a Rising Tide method would be made such that each eligible User would receive a cash distribution that, when added to the prior distributions received by that User, total an amount that equals a certain *pro rata* percentage—that is, the Rising Tide Percentage—of that User’s total investment in EminiFX (ignoring any purported profits, interest, bonuses, transfers or other amounts shown in the EminiFX system other than actual money contributed to EminiFX by the investor). A distribution under the Rising Tide method can be calculated as follows:

$$\text{Distribution} = (\text{Verified User Deposit Amount} \text{ multiplied by Rising Tide \%}) \text{ minus Verified User Withdrawal Amount} \text{ minus Distributions by Receiver to Date}$$

By way of example, if the Rising Tide Percentage was fixed at 50%, and an investor previously received withdrawals and distributions equal to 28% of his or her investment in EminiFX, then such investor would receive a distribution from the Receiver equal to 22% of that

investor's investment in EminiFX. Investors that previously received withdrawals and distributions equal to or greater than the then-applicable Rising Tide Percentage would not receive any distribution from the Receiver at that time.

The Receiver will set the initial Rising Tide Percentage in his sole discretion promptly after the later of (i) the conclusion of the investors' period to respond to the Receiver's initial schedule of Disputed transactions, and (ii) approval of a Distribution Plan by the Court. When calculating such percentage, the Receiver expects to account for all available information—including the amounts of Disputed transactions in Class 3 and 4 and estimates of remaining Class 1 and Class 2 claims—and to reserve conservatively given that the Receiver expects to increase the Rising Tide Percentage from time to time as reserves are released.

Once set, the Receiver will post such initial Rising Tide Percentage on the Receivership website and shall file with the Court a notice identifying the applicable Rising Tide Percentage and a schedule showing the Verified Deposit Amounts and Verified Withdrawal Amounts for each Allowed User Claim, in advance of making such distribution. Users' Verified Deposit Amounts and Verified Withdrawal Amounts will also be made available on the Receiver's website and on the User Portal. [Plan, at 17].

The Receiver will set the User Convenience Class Distribution Percentage at the same time he sets the initial Rising Tide Percentage, and will follow a similar procedure as set forth above, posting the User Convenience Class Distribution Percentage on the website, filing schedules with the Court, and updating the User Portal with the Verified Deposit Amounts for affected Users. [Id.]

For subsequent distributions, when the Receiver determines it is prudent to increase the Rising Tide Percentage—using reasonable reserve estimates and seeking to minimize the costs of

distributions—the Receiver will follow a similar procedure, posting the revised Rising Tide Percentage on the website, filing updated schedules with the Court, and updating the User Portal [Id.]

C. Comparison with Other Distribution Methods

Because the User funds were commingled, and because the Receiver determined that EminiFX was operated as a Ponzi scheme, the Receiver proposes to distribute the recovered funds *pro rata*, rather than to attempt to trace any misappropriated funds to individual users. The Second Circuit—and courts and Restatement generally—find that the “*pro rata* option as the more equitable distribution plan in Ponzi schemes because “[i]n such a scheme, whether at any given moment a particular customer's assets are traceable is “a result of the merely fortuitous fact that the defrauders spent the money of the other victims first.” *Callahan*, 193 F. Supp. 3d at 192 (quoting *S.E.C. v. Credit Bancorp, Ltd.*, 290 F.3d 80, 89 (2d Cir. 2002)).

The Rising Tide *pro rata* method used under the Distribution Plan was selected over another commonly used *pro rata* method of calculating distributions, the Net Investment method. Under this approach, Users’ Claims would be fixed by subtracting their total withdrawals from their total deposits, and each would receive a percentage of that resulting amount. In this case, however, the Receiver has determined that application of the Net Investment method would result in a less than equitable result, as Users who made pre-Receivership withdrawals stand to receive additional distributions at the expense of Users who made none. [See Castleman Aff. ¶ 82-84.]

The following hypothetical illustrates the point:

Investor A invests \$100,000 in a co-mingled account with other investors in a Ponzi scheme. Investor A then withdraws \$20,000 before the scheme collapses, so his net loss is \$80,000. Investor B invests \$100,000 in the scheme and withdraws nothing, so his net loss is \$100,000. Suppose that the receiver was able to recover \$18,000 in assets from the defendant, which equals one tenth of the total loss of \$180,000 by the two investors. Under the net loss method, each investor would receive a tenth of his loss, so A would receive \$8,000 (1/10 of \$80,000) and B would receive

\$10,000 (1/10 of \$100,000). However, technically because A already withdrew \$20,000 from the scheme, the distribution of \$8,000 permits him to recover a total of \$28,000 or 35% of his total loss of \$80,000, which is a far greater percentage of his loss than the 10% of his loss that Investor B will recover.

*Callahan*, 193 F. Supp. 3d at 198-99.

D. Additional Plan Provisions

In addition to the classification and treatment of EminiFX Claims, the Distribution Plan also includes the following additional procedures and provisions:<sup>9</sup>

*Lien Resolution Procedures* [Plan, at 18-19]: The Receiver is authorized, without further Court order, to establish and publish procedures for third party lienholders to assert their rights to a distribution otherwise payable to Holders of Allowed EminiFX Claims. The Receiver shall be permitted to withhold or pay distributions to those third parties, provided that the Receiver is given notice of such lien pursuant to the established procedures.

*Deceased Claimant Procedures* [*Id.* at 19]: The Receiver may publish a form and related procedures for beneficiaries of estates of Holders of User Claims that are deceased, which shall require valid evidence of death and a right to receive distributions on behalf of the deceased Holder's estate. The Receiver shall be authorized to determine the validity of any such evidence in his discretion, subject to the right of any party to seek a ruling from this Court.

*Unclaimed Distributions* [*Id.*]: The Receiver is permitted to withhold distributions to Holders of Allowed Claims if a Holder fails to provide the Receiver with information necessary to facilitate those distributions. If the Holder provides the requisite information, the Receiver will make all distributions then owing. Otherwise, if the Receiver in his discretion determines that attempts to obtain the information have been exhausted prior to making the final distribution, the

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<sup>9</sup> The procedures are outlined herein are provided for summary purposes only; to the extent of a discrepancy between the procedures in the Distribution Plan and the descriptions herein, the Distribution Plan controls.

Holder will be deemed to have forfeited the distributions, and they will become Receivership Assets available for distribution to other Holders of Allowed Claims.

*Injunction* [*Id.* at 23]: The Distribution Plan provides for an injunction against all persons or entities who have held, hold, or may hold EminiFX Claims from pursuing those Claims against the Receivership Assets, except to the extent set forth in the Distribution Plan. The Receivership Preliminary Injunction Order will continue to remain in full force and effect through entry of an order closing the CFTC Enforcement Action, unless otherwise superseded by an Order of the Court.

*Interim and Final Distributions* [*Id.* at 16-18]: The Receiver is authorized to make distributions of Receivership Assets pursuant to and consistent with this Distribution Plan from time to time as determined by the Receiver in his sole discretion without further specific approval of the Court. With respect to Class 3 User Claims, the Rising Tide Percentage will be fixed for the initial distribution and, to the extent it increases, will be published in advance of any additional distribution.

## **II. The Receiver Will Continue To Administer The EminiFX Claims Process To Determine Which Claims Are Entitled To A Distribution**

The Receiver anticipates making distributions under the Plan as EminiFX Claims become Allowed in accordance with the Claims Procedures previously approved by the Court, as well as the supplemental Claims procedures set forth in the Distribution Plan. This Section summarizes the status of the allowance process, and the procedures that would govern should the Distribution Plan be approved.

### **A. Non-User Claims**

On August 2, 2024, the Receiver filed a Non-User Claims Report [Dkt. 369] in accordance with the Claims Procedures. As outlined there and noted above, all but one of the eight unique

Non-User Claims has been resolved and satisfied. The following table sets forth these resolved Claims:

| <b>Claimant<sup>10</sup></b> | <b>Amount Asserted</b>     | <b>Resolution Amount</b>   | <b>Percentage</b> | <b>Authorization</b>  |
|------------------------------|----------------------------|----------------------------|-------------------|-----------------------|
| A0002                        | \$700,048.25 <sup>11</sup> | \$160,500.00 <sup>12</sup> | 23%               | Dkt. 339              |
| A0003                        | \$5,094,562.39             | \$251,555.37               | 5%                | Dkt. 249              |
| A0004                        | \$220,288.08               | \$90,376.06                | 41%               | Dkt. 294              |
| A0005                        | \$17,458.03                | \$5,000.00                 | 28%               | Dkt. 91 <sup>13</sup> |
| A0006                        | \$81,098.00                | \$10,000.00                | 12%               | Dkt. 91               |
| A0007                        | \$17,324.30                | \$5,000.00                 | 29%               | Dkt. 91               |
| A0008                        | \$5,003.50                 | \$1,375.00                 | 27%               | Dkt. 91               |
| <b>Total</b>                 | <b>\$6,135,782.55</b>      | <b>\$522,431.43</b>        |                   |                       |

The Receiver determined that the one remaining Non-User Claim, A0001, should be disallowed (the “**Disallowed Claim**”). The Disallowed Claim was originally asserted in the amount of \$992,614.05, though the claimant later sought to adjust the amount of the Disallowed Claim to an amount in excess of \$2 million. The Holder of the Disallowed Claim was given until September 27, 2024 to dispute the Receiver’s determination with respect to the Claim.

<sup>10</sup> Pursuant to the Claims Procedures, the Receiver assigned Claimants a unique identifier (each a “Non-User Identification Number”).

<sup>11</sup> After the initial filing of the Proof of Claim, Claimant A0002 sought to increase the claim amount under an alternative theory of liability to \$1,015,048.25.

<sup>12</sup> The \$160,500 settlement was a return of the \$535,000 the Claimants initially turned over to the Receiver subject to Claimants’ right to make a claim against the Receivership, releasing the encumbrance on the remaining \$374,500. [Dkt. 339].

<sup>13</sup> The Supplemental Procedures Order entered on August 5, 2022 [Dkt. 91] authorized the Receiver to settle claims for under \$50,000 where such settlement is in the best interest of the estate.



B. Verified User Transactions

As outlined above, the Receiver's review of the Disputed Transactions is ongoing. The Receiver expects that the process of fixing User Claims will continue for the next several months. However, the Receiver expects to be able to make distributions to Users with Allowed User Claims before the conclusion of the process.

Consistent with the Claims Procedures, the Receiver anticipates filing a Schedule of Disputed Transactions (as defined in the Claims Procedures) with respect to unresolved, Disputed Transactions, in or around October 2024. Affected Users will have 45 days thereafter in which to object using the User Portal and the Receiver will continue to seek to reach a consensus with those investors who claimed to have deposited or withdrew actual funds from EminiFX.

Thereafter, for all disputes that remain, the Receiver will file with the Court a summary of the investor objections to the Schedule of Disputed Transactions and a statement in support of the Receiver's determination with respect thereto and may seek one or more orders of the Court resolving any disputes.

Though this process is anticipated to span several months, the vast majority of Users will have verified their claims and have no disputes as of the filing of the Schedule of Disputed Transactions in October 2024. Accordingly, the Receiver anticipates that initial distributions may commence for those Users (provided they are not insiders or otherwise subject to heightened scrutiny), prior to the full and final conclusion of the transaction review process pursuant to the Claims Procedures and this Distribution Plan.

C. Additional Procedures Governing the Resolution of Disputed Transactions

In addition to the provisions already approved in the Claims Procedures, the Distribution Plan sets forth the following additional procedures that would govern the resolution of User Claims prior to distribution:

*Equitable Consolidation* [*Id.* at 14]: Up until the Review Hold Expiration Date, the Receiver may determine that certain User accounts should be deemed consolidated with one another for purposes of determining their Verified User Deposit Amount and the Verified User Withdrawal Amounts.<sup>14</sup> In such a case, the Receiver will notify the affected Users in writing (which may be through the User Portal), and thereafter such affected Users' Claims shall not be Allowed or entitled to any distribution on account of such Claim unless and until the Receiver's determination is withdrawn in writing by the Receiver, resolved by agreement between the claimant(s) and the Receiver, or resolved by a Final Order of this Court.

*Review Holds* [*Id.* at 14-15]: The Receiver will be afforded the authority to place a temporary "review hold" with respect to any EminiFX Claim or the Holder thereof at any time up until the Review Hold Expiration Date (*i.e.*, the later of (i) June 30, 2025 or (ii) the date that is six months after the entry of an order of this Court approving the Distribution Plan), which shall prevent any EminiFX Claim identified in such temporary "review hold" from being Allowed. Any "review hold" shall automatically expire on the Review Hold Expiration Date if not removed before such time, *unless* a Litigation Demand has been made, or a request for equitable subordination or consolidation.

*Litigation Demands* [*Id.* at 15]: The Receiver is provided the authority to assert a Litigation Demand with respect to any EminiFX Claim (regardless of whether a temporary "review hold" applied to such EminiFX Claim). The assertion of a Litigation Demand will prevent any EminiFX Claim identified in such Litigation Demand and all EminiFX Claims of the Holder identified in such Litigation Demand from being Allowed at any time after notice of the Litigation Demand is

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<sup>14</sup> An example of a situation in which the Receiver may determine to consolidate two accounts is where the principal owner of the account is the same (*e.g.*, a business account and a personal account or if the User opened up two separate accounts) and one of the relevant investor accounts is held by a Net Winner. The foregoing is solely an example for illustrative purposes. The Receiver may determine to designate accounts for consolidation in other situations as well.

provided to the relevant Holder, until such time that the Litigation Demand is withdrawn in writing by the Receiver, resolved by written agreement of the Receiver, or resolved by a Final Order of this Court.

*Subordination* [*Id.* at 15-16]: The Receiver may determine that certain User Claims or User Convenience Class Claims, under the applicable facts and circumstances, should be classified as Subordinated Claims. The Receiver may, prior to the Review Hold Expiration Date, file one or more schedules of Subordinated Claims with the Court from time to time, and shall serve any affected Holder. Any affected Holder shall have 45 days to submit an objection to the Receiver, in a manner specified by the Receiver upon service of the schedule of Subordinated Claims, or such Subordination classification shall become final. For any Subordination classification not resolved consensually with the affected Holder, the Receiver shall submit such classification dispute to the Court for summary disposition in a manner consistent with Section 5 of the Claims Procedures.

*Office of Foreign Assets Control (“OFAC”) Review* [*Id.* at 18]: The receiver is authorized under the Distribution Plan to take actions necessary to comply with applicable law, including, but not limited to, withholding distributions otherwise payable as a result of regulations promulgated by the OFAC of the U.S. Department of Treasury.

*Holdback of Disputed Transactions* [*Id.* at 9-10, 19]: So long as one or more of a User’s transactions remains a Disputed Transaction, or is otherwise subject to one of the procedures set forth above, no distribution will be made to the User. If and when the User’s Claim becomes Allowed, the User will be entitled to any catch-up distributions they otherwise would have been entitled to at the time.

D. Net Winner Procedures and Other Affirmative Litigation

In addition to the foregoing procedures, the Distribution Plan also includes provisions applicable to the claims and causes of action held by EminiFX that are a part of the Receivership Assets (referred to in the Distribution Plan as “Causes of Action”). [Plan, at 20-21]. Specifically, the Plan expressly preserves the Receiver’s right to commence litigation, settle, or otherwise resolve such Causes of Action, with such settlement authority—except in the case of Net Winners, discussed below—generally tracking the grant of authority contained in the Order re Supplemental Procedures. [Plan, at 20.]

There are multiple instances in which these procedures might affect Holders of EminiFX Claims—specifically, Net Winners, finders and promoters, and insiders collecting cash.

A Net Winner is defined in the Distribution Plan as “any person or entity for which their Verified Withdrawal Amount is in excess of their Verified User Deposit Amount.” [Plan, at 5.] Because of the nature of the Rising Tide method of distribution, Net Winners will not receive any distribution [Plan, at 21]. The Distribution Plan further contemplates that the Receiver may make settlement offers to Net Winners, offering a release from litigation by the Receiver in exchange for return of fifty percent of the amounts received by Net Winners. Absent any settlement, Net Winners may be subject to potential affirmative Causes of Action brought by the Receiver. [*Id.*]

The Receiver is continuing to investigate finders and promoters of EminiFX, as well as the insiders who the Receiver understands were collecting cash directly from Users. Many of these same individuals or entities were also Users themselves, and may be Holders of User Claims or User Convenience Class Claims. As the Receiver’s investigation continues, it may be necessary for the Receiver to place Review Holds on their User accounts, or take other action with an eye to determining whether viable claims exist against those parties.

Should the Receiver litigate to judgement, or otherwise resolve, such claims, the Distribution Plan provides that the recovered sums will become part of the Receivership Assets and distributed in accordance with this Distribution Plan, unless the Receiver moves the Court for an amendment to this Distribution Plan concerning such recovery. [Plan, at 24.]

### **III. Proposed Notice Procedures**

Contemporaneously with the filing of this Motion, the Receiver is making a full copy of the Distribution Plan available on the Receiver's website, alongside a summary "explainer," substantially in the form of the draft website page attached to the Castleman Affidavit as Exhibit 2, that describes the Distribution Plan's relevant provisions. Additionally, a link to the Distribution Plan and "explainer" will be e-mailed to all Users, Non-User Claimants, and other parties in interest at their provided e-mail address. The e-mail to Users will be substantially in the form of the draft email attached to the Castleman Affidavit as Exhibit 3. The foregoing will be mailed to Users and or Non-User Claimants, including any governmental entities, to the extent that e-mail is unavailable. A copy of the Distribution Plan, this Motion and its supporting documentation, as well as the explainer, will be mailed to Alexandre.

Users will have the opportunity to respond to the Plan via the User Portal, which will be updated with a feature allowing Users to input and submit responses their responses. The updated interface will also include links to the Distribution Plan, explainer, and other relevant documents.

Under the Distribution Plan Schedule approved by the Court, the Receiver will submit a compendium of User responses on September 10, 2024. Along with that compendium, the Receiver will submit an affidavit of service reflecting the parties served in accordance with the procedures described herein.

## ARGUMENT

### **I. STANDARD OF REVIEW**

Consideration and approval of the Receiver’s proposed Distribution Plan falls well within this Court’s equitable authority. Generally, the Court possesses broad authority over the administration of receivership assets, including to “determine how and to whom the money will be distributed.” *S.E.C. v. Fischbach Corp.*, 133 F.3d 170, 175 (2d Cir. 1997); *see also Eberhard v. Marcu*, 530 F.3d 122, 131 (2d Cir. 2008); *C.F.T.C. v. Rolando*, 589 F. Supp. 2d 159, 172 (D. Conn. 2008) (“The Second Circuit has . . . grant[ed] broad equitable powers to district courts in enforcement matters brought by federal agencies.”); *see generally S.E.C. v. Hardy*, 803 F.2d 1034, 1037 (9th Cir. 1986) (“[A] district court’s power to supervise an equity receivership and to determine the appropriate action to be taken in the administration of the receivership is extremely broad.”). A district court has “equitable discretion” to decide whether to approve a distribution plan in a federal receivership. *S.E.C. v. Credit Bancorp, Ltd.*, 290 F.3d 80, 82-83 (2d Cir. 2002).

A Court may approve a proposed Distribution Plan if it is fair and reasonable. *See S.E.C. v. Varacchi*, 2021 WL 10361074, at \*6 (D. Conn. July 30, 2021) (“A distribution plan proposed by a receiver should be ‘reviewed under [the District Court’s] general equitable powers to ensure that it is fair and reasonable.’”) (quoting *S.E.C. v. Wang*, 944 F.2d 80, 81 (2d Cir. 1991)); *see also S.E.C. v. Enter. Tr. Co.*, 2008 WL 4534154, at \*3 (N.D. Ill. Oct. 7, 2008), *aff’d*, 559 F.3d 649 (7th Cir. 2009) (“There are no hard rules governing a district court’s decisions in matters like these. The standard is whether a distribution is equitable and fair in the eyes of a reasonable judge.”).

In making that determination, a receiver’s choices regarding the details of the plan proposed are entitled to deference. *See S.E.C. v. Amerindo Inv. Advisors Inc.*, 2016 WL 10821985, at \*3 (S.D.N.Y. May 20, 2016) (“[I]t is within a district court’s discretion to approve a distribution plan proposed by a receiver—and to defer to the receiver’s choices for the plan’s details—so long

as the plan is ‘fair and reasonable.’”).<sup>15</sup> As the Fourth Circuit recently explained “‘receivers ‘have a duty to avoid overly costly investigations, and at a certain point, the costs of such individualized determinations outweigh the benefits.’” *CCWB Asset Invs., LLC v. Milligan*, --- F.4th ----, No. 22-2256, 2024 WL 3658780, at \*3 (4th Cir. Aug. 6, 2024) (quoting *S.E.C. v. Wealth Mgmt. LLC*, 628 F.3d 323, 336 (7th Cir. 2010)).

## **II. THE CALCULATION AND DISTRIBUTION OF USER CLAIMS UNDER THE DISTRIBUTION PLAN IS EQUITABLE**

The Distribution Plan as a whole is fair and reasonable, and its proposed method of calculating distributions (*i.e.*, the Rising Tide method) and the method of calculating Allowed User Claims (ignoring fictitious ROI, bonuses and internal transfers) promotes equity under the facts of this case. The Receiver has determined that EminiFX operated as a Ponzi scheme. It had no legitimate business operations and none of the money contributed by Users was actually invested. Users of EminiFX therefore could not have made genuine profits or ROI. Yet, every week Users’ account balances would increase by approximately 5%-10%, and Users were able to—and often did—withdraw cash or Bitcoin based on those increases. With no actual earnings or ROI, those withdrawals could only be the product of money contributed by other investors. In that way, EminiFX had all the classic indicia of a Ponzi scheme, and should be treated as such.

Where an entity is found to have operated as a Ponzi scheme, courts in and outside of this Circuit have found that the best resolution for investors, as a group, entails making a *pro rata* distribution based of the total funds recovered using the Rising Tide method. That method recognizes only actual deposits made by investors (not “fictitious profits”). It also treats

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<sup>15</sup> In addition, “substantial weight” should be afforded to the position of the relevant agency—here, the CFTC—on the merits of the proposed plan. *Amerindo Inv. Advisors Inc.*, 2016 WL 10821985, at \*3. The CFTC has indicated to the Receiver that it does not oppose the proposed Distribution Plan. The CFTC’s brief in response is due on September 10, 2024, and the Receiver will address any issues raised by the CFTC (or other responding parties) in his September 27, 2024 reply brief.

withdrawals as equivalent to pre-receivership distributions, given that both withdrawals and distributions come from the same pot of commingled funds.

A. EminiFX's Operations Contain the Indicia of a Ponzi Scheme<sup>16</sup>

While a “Ponzi scheme” has never been precisely defined, courts can identify one based on its adherence to a “general pattern, rather than specific requirements.” *Bear, Stearns Sec. Corp. v. Gredd (In re Manhattan Inv. Fund Ltd.)*, 397 B.R. 1, 12 (S.D.N.Y. 2007). That pattern entails “any sort of inherently fraudulent arrangement under which the debtor-transferor must utilize after-acquired investment funds to pay off previous investors in order to forestall disclosure of the fraud.” *Id.* at 12 (internal quotation marks omitted). This is readily apparent where the entity used for operation of the scheme suffers significant losses. *See id.*

Courts in this district have also looked to certain “badges” in identifying the Ponzi-scheme pattern. These include:

the absence of any legitimate business connected to the investment program, the unrealistic promises of low risk and high returns, commingling investor money, the use of agents and brokers paid high commissions to perpetuate the scheme, misuse of investor funds, the “payment” of excessively large fees to the perpetrator and the use of false financial statements.

*Gowan v. Amaranth Advisors L.L.C. (In re Dreier LLP)*, 2014 WL 47774, at \*9 (Bankr. S.D.N.Y. Jan. 3, 2014); *see also Pergament v. Torac Realty, LLC (In re Diamond Fin. Co., Inc.)*, 658 B.R. 748, 766 (Bankr. E.D.N.Y. 2024) (noting the use of a similar four-factor test: “1) deposits were made by investors; 2) the [d]ebtor conducted little or no legitimate business operations as represented to investors; 3) the purported business operation of the Debtor produced little or no profits or earnings; and 4) the source of payments to investors was from cash infused by new

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<sup>16</sup> The Receiver sets forth herein all of the aspects of EminiFX's operation that denote a Ponzi scheme primarily to establish why the Rising Tide method of distribution is most equitable here, as well as to explain why exclusion of ROI and bonuses from User Claims is appropriate, and why he has a good faith basis to assert claims against Net Winners (those Users who withdrew more than they deposited).



investors”) (quoting *S.I.P.C. v. Bernard L. Madoff Inv. Sec. LLC (In re Bernard L. Madoff)*, 531 B.R. 439, 471 (Bankr. S.D.N.Y. 2015)).

EminiFX fits the pattern of a Ponzi scheme in that it (i) engaged in commingling, (ii) lacked meaningful investment operations, (iii) transferred substantial funds to Alexandre’s personal accounts, and, all the while, (iv) promised unrealistic returns to its Users.

*First*, User funds were commingled in EminiFX’s several accounts. *See Diamond Fin. Co., Inc.*, 658 B.R. at 767. Cash contributions from Users generally went to EminiFX’s TD Bank or Bank of America account, and a majority of Bitcoin was directed to EminiFX’s Coinpayments account. [See Castleman Aff. ¶¶ 38, 41-42.] Though EminiFX generally logged Users’ transactions, these records were incomplete, and the funds themselves were not segregated within EminiFX’s accounts. [See *id.* ¶¶ 19, 25, 42.]. Most importantly, all withdrawals were paid from commingled EminiFX funds consisting of User deposits. [*Id.* ¶ 75.]

*Second*, EminiFX engaged in minimal, if any, legitimate business operation. While its stated purpose was to enable Users to engage in trading and provide investment opportunity, of the total funds contributed by Users, only a minimal amount—approximately \$14 million—was invested. [*Id.* ¶ 71.] The balance of Users funds sat, commingled, in EminiFX’s accounts. And even then, the majority of the investment activity consisted of a diversion of User funds into Alexandre’s personal Interactive Brokers account. That, in addition to the investments made in Kot4X, Gemini, and later, in real estate transactions, all resulted in losses. [*Id.* ¶¶ 59-71.]

That EminiFX lacked legitimate business operation is further evidenced by the absence of any formal record-keeping at the company. As noted, the Receiver has not found any indication that EminiFX kept a ledger or any accounting records. [*Id.* ¶ 34.] The Database used by EminiFX

employees was used mainly to assign values to User accounts based on the amount that they deposited into the system, not for any formal accounting [*Id.* ¶ 26.]

*Third*, the Receiver has identified the transfer of over \$15 million of User funds to Alexandre’s personal TD Bank account. [*Id.* ¶ 74.] Moreover, that personal TD Bank account was used to conduct EminiFX business, as shown by the funding of Alexandre’s personal Interactive Brokers account with EminiFX funds, and using that account to receive deposits from EminiFX Users. [*Id.*]

*Fourth*, despite considerable losses, EminiFX offered high weekly ROI to Users, and rewarded Users who recruited new Users to the scheme with bonuses. As discussed, however, these awards of additional sums had no connection to the value of EminiFX’s investments, and eventually far exceeded the value of its assets. [*Id.* ¶¶ 77-80.]

Thus, EminiFX contained most, if not all, of the flags that courts use to identify a Ponzi scheme. As set forth below, the Distribution Plan’s calculation of claims and method of distribution properly reflects this.

B. Rising Tide is Appropriate Where Distributions are Based on Refunds of Deposits in a Ponzi Scheme

In Ponzi scheme cases where funds are commingled, as here, the Second Circuit has made clear that distribution plans should be based on a *pro rata* distribution of the entire receivership estate, rather than attempting to trace individual contributions. In *Credit Bancorp*, the Second Circuit held that “*pro rata* distribution of assets where, as here, the funds of the defrauded victims were commingled and where victims were similarly situated with respect to their relationship to the defrauders,” and found the use of a *pro rata* distribution . . . “especially appropriate for fraud victims of a ‘Ponzi scheme.’” *S.E.C. v. Credit Bancorp, Ltd.*, 290 F.3d 80 (2d Cir. 2002) (citing *Cunningham v. Brown*, 265 U.S. 1 (1924) (the original case involving Charles Ponzi’s scheme));

*accord S.E.C. v. Malek*, 397 F. App'x 711, 715-16 (2d Cir. 2010) (explaining the preference of *pro rata* to traceability in Ponzi scheme cases). There are two types of commonly used *pro rata* distribution schemes in Ponzi scheme cases—“Rising Tide” (*pro rata* based on deposits, treating pre-receivership withdrawals as equivalent to prior distributions), or “Net Investment” (*pro rata* based on the net of deposits less withdrawals).

The Receiver proposes “rising tide” in the Distribution Plan. “[C]ourts have tended to favor the ‘rising tide’ approach as more equitable because it prevents an investor who previously received funds as a withdrawal from benefitting at the expense of other investors in the scheme who did not receive any withdrawals and therefore, lost the entire amount of their investment in the Ponzi scheme.” *Callahan*, 193 F. Supp. 3d at 199; *see also Huber*, 702 F.3d at 906-07 (“Rising tide appears to be the method most commonly used (and judicially approved) for apportioning receivership assets. . . . An investor has no entitlement to money stolen from other people. When investors’ funds are commingled, none being traceable to a particular investor, no part of whatever funds are recovered is property of any investor.”) (collecting cases); *Milligan*, --- F.4th ----, 2024 WL 3658780, at \*3 (approving a rising tide plan and noting that the goal of a receivership is a “fair distribution of the liquidated assets,” and that “an equitable plan is not necessarily a plan everyone will like” (cleaned up)).

As set forth above, the funds that Users deposited into the EminiFX System were commingled, each User achieved no actual profit from their individual deposits into the EminiFX System. Those Users who did make withdrawals were actually withdrawing Funds of other Users that were deposited and all commingled in the EminiFX accounts. In response to Ponzi scheme investors arguing that “they shouldn't be penalized for having withdrawn some of ‘their’ money,” Judge Posner explained: “But it was not *their* money; they withdrew portions of the commingled

assets in the Ponzi schemer's funds. Those were stolen moneys, albeit stolen in part from the eleven appellants. An investor has no entitlement to money stolen from other people. When investors' funds are commingled, none being traceable to a particular investor, no part of whatever funds are recovered is property of any investor." *Huber*, 702 F.3d at 906-07. Because the funds available for distribution under the Distribution Plan are the same funds that Users withdrew prior to the Receivership, the Distribution Plan treats pre-Receivership withdrawals as distributions ("**EminiFX Pre-Receivership Withdrawals**"). Otherwise, Users who happened to make withdrawals prior to the Receivership would benefit significantly over those Users who did not. *See C.F.T.C. v. Lake Shore Asset Mgmt. Ltd.*, 2010 WL 960362, at \*9 (N.D. Ill. Mar. 15, 2010), *aff'd*, 646 F.3d 401 (7th Cir. 2011) ("[U]nlike the 'Net Investment' method, the 'Rising Tide' method does not penalize investors based upon the timing of their investments because all investors share equally in the available monies.").

Courts have rejected the Rising Tide approach only in limited circumstances, not present here, where "a significant number of investors withdrew their money from the Ponzi scheme at issue and would not be entitled to a distribution." *Callahan*, 193 F. Supp. 3d at 199. For example, in *S.E.C. v. Byers*, the court rejected the Rising Tide approach in the *Wextrust* scheme where "using the rising tide approach would mean that 45% of investors would receive no distribution." 637 F. Supp. 2d 166, 182 (S.D.N.Y. 2009), *aff'd sub nom. S.E.C. v. Malek*, 397 F. App'x 711 (2d Cir. 2010). Here, based on the Receiver's modeling, only 10% of Users might not receive an initial distribution—and most of these Users are Net Winners (received more than they ever contributed to EminiFX). [Castleman Aff. ¶ 84 & Ex. 16.]<sup>17</sup> *Cf. Huber*, 702 F.3d at 907 ("[O]nly 18 percent

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<sup>17</sup> The Receiver's model is based on current estimates, and is not intended to be an exact calculation of the eventual distribution to EminiFX users if the Distribution Plan is approved. Actual results may vary.

of the investors in Huber’s scheme receive nothing under rising tide, and so in this case that method is an acceptable alternative to net loss.”).

While there may be some Users that do not receive a distribution, they only represent a very small percentage of the total number of Users, and they have already received distributions from EminiFX in the form of Pre-Receivership Withdrawals. By contrast, the vast majority of Users who made no withdrawals will receive a greater distribution under the Rising Tide method as compared to the Net Investment method of distribution. Even though the calculation is the same for each such investor given the lack of withdrawals, the *pro rata* percentage applied to the investor’s deposits is higher under the Rising Tide method than under the Net Investment method for the same amount of funds distributed, as reflected in the Receiver’s model. [Castleman Aff. ¶ 84 & Ex. 17.] Under the facts and circumstances in this case, the Receiver respectfully submits that the Rising Tide method of distribution is the most fair and equitable method of distribution in this case.

C. The Distribution Plan Properly Excludes ROI, Bonuses, and Internal Transfers

In calculating each User’s claim, the Distribution Plan properly excludes from consideration ROI, bonuses, and internal transfers, while including only Verified User Deposit Amounts and Verified User Withdrawal Amounts.

i. ROI

Any ROI attributed to Users were fake profits: as described above, the additional sums attributed to Users’ accounts were entirely divorced from EminiFX’s actual investment activity and finances. Where a Rising Tide method of distribution is employed, Courts have approved the exclusion of fictitious profits from claims. *See C.F.T.C. v. Equity Fin. Grp., Inc.*, 2005 WL 2143975, at \*23 (D.N.J. Sept. 2, 2005), *report and recommendation adopted sub nom. C.F.T.C. v. Equity Fin. Grp., LLC*, 2005 WL 2864783 (D.N.J. Oct. 26, 2005) (“The Court agrees [with the

Receiver's approach] that recognizing profits or other earnings in claims for distribution would be to the detriment of later investors and would therefore be inequitable."); *Lake Shore Asset Mgmt. Ltd.*, 2010 WL 960362, at \*4 (approving Receiver's plan where "the receiver credited investors for actual deposits and did not credit any alleged gain to any investor when calculating the Approved Claims Base."). Because the ROI applied to EminiFX User accounts were merely fictitious profits, their exclusion is appropriate here.

ii. Bonuses

Bonuses similarly were unconnected to any investment activity, and, to the extent withdrawn, could have consisted only of other Users' commingled contributions [Castleman Aff. ¶¶ 79-80]. In that way, the bonuses are integral to the Ponzi-like nature of EminiFX's operations, and are justifiably excluded from the calculation of User Claims. *See Smith v. Suarez (In re IFS Fin. Corp.)*, 417 B.R. 419, 440 (Bankr. S.D. Tex. 2009) ("The high interest rates promised and the promoter commission structure are hallmarks of a classic Ponzi scheme."). To the extent that recognition of these amounts would, in effect, reward recruitment of participants in a Ponzi scheme, their exclusion is equitable. *Gordon v. Dadante*, 2010 WL 4137289, at \*2-3 (N.D. Ohio Oct. 14, 2010) ("It is undisputed that the payments at issue here were commissions for bringing investors into the fund . . . To characterize these commission payments as distribution of profit would permit Frank to gain from the very investors that he persuaded to participate in this Ponzi scheme.").

iii. Internal Transfers

The Receiver does not credit "transfers" between Users within the EminiFX system in the Distribution Plan. Transfers decreased a User's total EminiFX balance, and therefore could consist of a combination of actual deposits, ROI, and bonuses. [Castleman Aff. ¶¶ 55-58.] While transfers were not necessarily comprised of fictitious profits in every instance, it would be extremely

burdensome, and require relying on EminiFX transfer records that may not be entirely accurate or complete, to conduct a User by User accounting to determine whether transfers in fact corresponded with actual deposits of US Dollars or BTC. While the inter-account method has been used elsewhere to determine which portion of a transfer can be credited to a transferee and deducted from a transferor, *see e.g., Diana Melton Tr. v. Picard (In re Bernard L. Madoff Inv. Sec., LLC)*, 2016 WL 183492, at \*1 (S.D.N.Y. Jan. 14, 2016), here, given the relatively low median value of each transfer (\$500), and the high volume of transfers (over 45,000), it would be cost prohibitive to undertake that analysis. [Castleman Aff. ¶¶ 56-58.] In a recent case considering a rising tide distribution plan proposed by a Receiver involving a Ponzi Scheme, the Fourth Circuit agreed with the receiver’s determination that attempting to trace using the maximum balance approach involving 76 transactions would be “administratively difficult” and approved of “rejecting a calculation that ‘would impose a massive new administrative burden on the receiver.’” *Milligan*, --- F.4th ----, 2024 WL 3658780, at \*4 (citing *S.E.C. v. Cap. Consultants, LLC*, 397 F.3d 733, 745 (9th Cir. 2005)). Here, there were over 45,000 transfers with a total transfer amount of over \$77 million and a median value of just \$500, making tracing all the more difficult. [Castleman Aff. ¶ 55.] Moreover, the Receiver believes that, even if using the inter-account method were feasible (and it is not), recognizing internal transfers would fail to promote equity, as it would require to deducting from a transferor a portion of their actual deposits to credit the transferee. [Castleman Aff. ¶ 58.]

### **III. THE DISTRIBUTION PLAN PROPERLY PRIORITIZES CLAIMS**

#### **A. The Distribution Plan Properly Treats User and Investor Claims *Pari Passu***

While a Receiver is given wide latitude to determine the classification of claims, including the subordination of non-investor claims, the Receiver has determined to afford Class 4 Other Claims (*i.e.*, Non-User Claims that do not fall in any other Class) the same treatment as Holders

of Class 3 User Claims.<sup>18</sup> This treatment promotes equity because each User’s individual distribution would be minimally affected, if at all, by *pari passu* treatment of the Other Claim, while in contrast, the remaining creditor would receive no recovery at all if subordinated to investors solely because of its status as a Class 4 Other Claim. See *C.F.T.C. v. Rust Rare Coin, Inc.*, 2020 WL 4904165, at \*4 (D. Utah Aug. 20, 2020) (“[T]he Receiver notes that if the unsecured creditors were placed in a class below the investors, none of the unsecured creditors would receive any recovery . . . Weighing all of these factors—the relative innocence of the unsecured creditors, the fact that the recovery is built on funds contributed by defrauded investors, and the need to help as many victims as possible—the court agrees with the Receiver that these groups should be treated the same. Accordingly, all of the above objections are overruled.”); see also *S.E.C. v. TCA Fund Mgmt. Grp. Corp.*, 2022 WL 17816956, at \*5 (S.D. Fla. Dec. 2, 2022) (“[C]ourts have not hesitated to group unsecured creditors and defrauded investors together for purposes of equity receivership distribution plans.”).

The inequity would be particularly acute here, when there is currently only one potential Other Claim. Although the Receiver has disallowed that one claim, if it is ultimately allowed in whole or in part, it would be inequitable to deny that Claimant any recovery. On the other hand, treating that Claimant’s Allowed Other Claim the same as the EminiFX User Claims, will not materially impact the distributions received by Users. Thus, the Court should approve the Receiver’s treatment of the Other Claim *pari passu* with User Claims.

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<sup>18</sup> The Receiver retains the right under the proposed Distribution Plan to seek subordination of the remaining claim within Class 4. However, should any or all of that claim not be subordinated, it would be entitled to *pari passu* treatment as described here.



B. The Distribution Plan Properly Maintains the Priority of any Tax Claims

The Receiver does not dispute that claims of the United States government, as applicable here, for taxes owed by EminiFX and the EminiFX QSF, have priority pursuant to 31 U.S.C. § 3713, which provides that “[a] claim of the United States Government shall be paid first when . . . a person indebted to the Government is insolvent and . . . the debtor without enough property to pay all debts makes a voluntary assignment of property . . .” Further, “[a] representative of a person or an estate . . .” here the Receiver “paying any part of a debt of the person or estate before paying a claim of the Government is liable to the extent of the payment for unpaid claims of the Government.” 31 U.S.C. § 3713(b).

The Receiver’s distribution to Holders of lower priority claims (Class 3, 4 and 5 Claims) before payment of the Tax Claims does not violate Section 3713(b), because the Receiver will maintain the priority of the Tax Claims by holding an amount in reserve that is sufficient to pay any Tax Claims. The amount of the reserve will be based on a reasonable and conservative estimate of the Receivership’s potential liability for such Tax Claims as determined by the Receiver in consultation with his advisors and based on discussions with the IRS). [See Plan at 11, 21.] As the Second Circuit has explained, such a reserve is “hardly novel.” *S.E.C. v. Credit Bancorp., Ltd.*, 297 F.3d 127, 140 (2d Cir. 2002) (explaining that it was improper for the court to permit the receiver to subordinate tax claims because they were undetermined, where “the Receiver could set up a reserve for taxes—a common step—and delay distribution of the reserved portion of the estate until [the insolvent’s] tax liabilities are determined . . . Such a reserve by the Receiver would doubtless be approved by the [District Court.]”); *see also S.E.C. v. Credit Bancorp, Ltd.*, 290 F. Supp. 2d 418, 420–21 (S.D.N.Y. 2003) (after the Second Circuit’s decision, “[t]he Receiver and the IRS are now close to entering into a Closing Agreement pursuant to which the Receiver may distribute assets to CBL customers in a plan of distribution provided that the

Receiver retains a reserve for taxes of at least \$5,000,000.”) Thus, while the Receiver recognizes the priority of the government’s claims, the uncertainty of those claims (if they are still uncertain at the time of distribution) do not require stalling distributions to Users. It would be unfair to delay distributions to other EminiFX creditors while the Receiver and the taxing authorities determine whether such authorities have a claim against the EminiFX Receivership and in what amount, particularly when there are sufficient reserves to ultimately satisfy any Tax Claim.

C. The Distribution Plan’s Subordination Procedures are Proper

The Distribution Plan also contains a subordinated class for a CFTC-imposed fine or penalty or for other claims that should be subordinated in the interest in equity, provided that the affected claimant agrees or that the classification decision is submitted to the Court for summary disposition. [Plan, at 6, 15.] Courts in this district have approved both of subordination of claims for those “involved in the fraudulent scheme,” and for summary proceedings to determine such classification. *Byers*, 637 F. Supp. 2d at 184 (“It is well-settled that a District Court has the authority, in implementing a distribution plan in a receivership case, to use summary proceedings to evaluate claims and claim priority, provided the parties have an opportunity to be heard to argue their claims.”). The Distribution Plan provides for notice and an opportunity to be heard, should he decide to subordinate any claims.

The CFTC has already submitted to this Court that it expects to subordinate a claim for a fine to the recovery of EminiFX Users, stating in March 14, 2024 letter that the “monetary penalty against Defendants [in the Consent Order that had been negotiated] would have been subordinated to other claims—including claims made by EminiFX participants—meaning that the penalty would have been collectable only if all valid participant claims were first fully satisfied, which is highly unlikely to occur.” [Dkt. 276, at 1.] The Receiver understands that the CFTC does not intend to object to this treatment, and will address any issues in reply if necessary.

#### **IV. THE COURT SHOULD AUTHORIZE THE RECEIVER'S PROCEDURE FOR PRE-LITIGATION SETTLEMENTS WITH NET WINNERS**

The Consent Order grants the Receiver “[t]he directions, authorizations, duties, and powers of the Temporary Receiver under the SRO” [Dkt. 56, at 13] including to “[i]nitiate, defend compromise, adjust, intervene in, dispose of, or become a party to, any actions or proceedings in state, federal, or foreign court that the Temporary Receiver deems necessary and advisable to preserve or increase the value of the Receivership Estate . . .” [Dkt. 9, at 12]. Pursuant to the Consent Order, the Receiver plans to pursue recovery for fraudulent conveyances against Net Winners, *i.e.*, Users who received payments above the total amount that they deposited into EminiFX. *See Moran v. Goldfarb*, 2012 WL 2930210, at \*7 (S.D.N.Y. July 16, 2012) (“[A]ny payments investors received in excess of their principal investments are voidable as fraudulent transfers.”). The Receiver requests authority from this Court to settle Net Winner claims for 50% of the net winnings, provided that such settlements are completed by June 30, 2025.

The Receiver has a good faith basis to assert claims against Net Winners as voidable transactions. First, the Receiver’s claims against the New Winners are timely, because the statute of limitations for claims under Section 273 of the NY Debtor Creditor Law is four years from the date the transfer occurred. N.Y. Debt. & Cred. Law § 278.<sup>19</sup> The earliest a transfer could have occurred in this case is September 2021 when EminiFX was first launched, meaning that all claims will be timely as of June 30, 2025. Second, the transferor’s actual intent to defraud (as required for a claim for fraudulent conveyance) is presumed because EminiFX was operated as a Ponzi scheme. *See Picard v. Citibank, N.A. (In re Bernard L. Madoff Inv. Sec. LLC)*, 12 F.4th 171, 181 (2d Cir. 2021) (“Under the so-called ‘Ponzi scheme presumption,’ ‘the existence of a Ponzi scheme

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<sup>19</sup> Because the withdrawals by Net Winners occurred during the period that EminiFX was operating from September 2021 through May 2022, the New York Debtor Creditor Law, as amended by the Uniform Voidable Transactions Act on April 4, 2020, applies to analysis of those transfers. N.Y. Legis. 580 § 7 (2019).

demonstrates actual intent as [a] matter of law because transfers made in the course of a Ponzi scheme could have been made for no purpose other than to hinder, delay or defraud creditors.”); *Johnson v. Neilson (In re Slatkin)*, 525 F.3d 805, 814 (9th Cir. 2008) (“We hold that once the existence of a Ponzi scheme is established, payments received by investors as purported profits—*i.e.*, funds transferred to the investor that exceed that investor’s initial ‘investment’—are deemed to be fraudulent transfers as a matter of law.”); *Moran*, 2012 WL 2930210, at \*5 (“[I]n the context of a Ponzi scheme, “[c]ourts have uniformly recognized a presumption of actual intent to defraud on the part of the transferor.” (quoting *Gowan v. The Patriot Grp. LLC (In re Dreier LLP)*, 2011 WL 2412581, at \*24 (Bankr. S.D.N.Y. June 16, 2011)).

The Receiver believes that offering a release is in the best interests of all Users, because it will create a greater likelihood of recovery for the estate, and the Court may properly approve the Receiver’s settlement procedures in advance. *See, e.g. S.E.C. v. Nationwide Automated Sys. Inc.*, 2015 WL 13710945, at \*3 (C.D. Cal. Apr. 21, 2015) (approving the Receiver’s proposed procedures, as described in the Receiver’s motion in that case [Dkt. 64], which included offering to settle claims against net winners without litigation, for 70 percent of the total transfers). Given the fraud that occurred here and the fact that the investor base is comprised mostly of individuals and not institutional investors, the Receiver believes an offer to accept 50% of the net winnings for settlements completed by June 30, 2025, is fair, reasonable, and in the best interest of the estate. Any settlements recovered will return money that can be used for distribution to other creditors

(i.e., net losers), while not placing an undue burden on the net winner, and a uniform settlement offer is both fair to similarly situated investors and reduces the cost of administration.

**V. THE DISTRIBUTION PLAN AFFORDS CLAIMANTS THE REQUISITE NOTICE AND OPPORTUNITY TO BE HEARD**

The Notice procedures outlined in Section III of the Distribution Plan summary, *supra*, are appropriate. The Receiver will provide notice to all claimants of this Motion through ECF Filing. The Receiver will provide notice specifically to Users by email directly to each User and by posting on the EminiFX Receivership Website. As such, all creditors whose claims may be impacted by the Distribution Plan are being afforded notice and an opportunity to be heard, as is required. *See Callahan*, 193 F. Supp. 3d at 204; *see also Byers*, 637 F. Supp. 2d at 184 (approving summary proceedings to evaluate claims). The proposed notice procedures for the Motion are consistent with previous notice procedures proposed by the Receiver and approved by this Court. [Dkts. 77, 79, 91, 225].

*[Remainder of Page Intentionally Left Blank]*

**CONCLUSION**

For the reasons set forth herein, the Receiver respectfully requests that the Court enter an Order substantially in the form attached to this Motion, granting the Motion approving the Distribution Plan and related procedures, and granting such other and further relief as the Court deems just and proper.

Dated: New York, New York  
August 9, 2024

**OTTERBOURG P.C.**

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*Attorneys for David A. Castleman, as  
Receiver*

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

COMMODITY FUTURES TRADING COMMISSION,

Plaintiff,

-against-

EDDY ALEXANDRE and  
EMINIFX, INC.,

Defendants.

Case No.: 22 Civ. 3822 (VEC)

**AFFIDAVIT OF DAVID A. CASTLEMAN, AS RECEIVER, IN SUPPORT OF  
HIS MOTION FOR ENTRY OF AN ORDER APPROVING  
(I) THE RECEIVER’S DISTRIBUTION PLAN;  
(II) THE DETERMINATION OF ALLOWED USER CLAIMS;  
(III) NOTICE OF DISTRIBUTION PLAN; AND  
(IV) AUTHORITY TO PURSUE CAUSES OF ACTION**

I, David A. Castleman, pursuant to 28 U.S.C. § 1746, hereby affirm that the following is true to the best of my knowledge, information, and belief:

1. I am a member (partner) of the law firm Otterbourg P.C. (“**Otterbourg**”), and have been associated with Otterbourg since January 2023. I received my undergraduate degree *cum laude* from Dartmouth College in 2001, and worked as a software engineer during and after college. I received my law degree *cum laude* from the University of Pennsylvania Law School in 2006 and have been a member of the Bar of the State of New York since 2007.

2. I was appointed temporary receiver in the above-captioned action on May 11, 2022 [Dkt. 9], and was appointed as Receiver (“**Receiver**”) pursuant to the Consent Preliminary Injunction (the “**Consent Order**”) entered by this Court on June 15, 2022 [Dkt. 56].

3. I submit this affidavit (the “**Affidavit**”) in my capacity as Receiver and in support of my motion for entry of an Order approving (i) the Receiver’s Distribution Plan; (ii) the

Determination of Allowed User Claims; (iii) Notice of Distribution Plan; and (iv) Authority to Pursue Causes of Action (the “**Motion**”). A true and correct copy of my proposed distribution plan (the “**Distribution Plan**”)<sup>1</sup> is attached hereto as Exhibit 1.

### **INTRODUCTION AND PROCEDURAL HISTORY**

4. On May 11, 2022, the Court entered the Statutory Restraining Order [Dkt. 9], which, among other things appointed me as the Temporary Receiver over EminiFX and the assets of Alexandre traceable to EminiFX customer funds. On June 15, 2022, the Court entered the Consent Order [Dkt. 56], appointing me as the Receiver for EminiFX and its affiliates or subsidiaries owned or controlled by EminiFX (the “**Receivership Defendants**”).

5. From time to time, consistent with responsibilities under the Consent Order, I have filed status reports to update the Court on the activities of the Receivership [Dkts. 71, 163, 192, 195, 218, 234, 251, 301, 370]. Those status reports contain, to the best of my knowledge, true and accurate information as of the date such status report was filed.

6. On June 10, 2022, the Court approved my application to hire JS Held LLC (“**JS Held**”) as financial advisor and Stretto Inc. (“**Stretto**”) as my claims administrator [Dkt. 47]. JS Held assisted my team in taking over EminiFX and collecting large amounts of data from EminiFX computers and servers, and has continued, under my direct supervision, to provide forensic analysis of the data collected.

7. On May 16, 2023, I prepared, with the assistance of JS Held, and filed the *Financial Condition Report of EminiFX, Inc.* (“**Financial Condition Report**”) [Dkt. 199]. The Financial Condition Report contained the most complete and accurate picture of EminiFX that my advisors and I had at the time the report was filed, based on the documents and information available.

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<sup>1</sup> Capitalized terms not defined herein have the meanings ascribed to them in the Motion and in the Distribution Plan.



8. In the Financial Condition Report, I noted that that I had found no evidence of (a) any corporate separateness among EminiFX investment and operational entities; (b) any segregation of EminiFX funds from company or operational funds; (c) investment or other contracts with any EminiFX User; (d) any regularly issued User account statement documents outside of the EminiFX Database; (e) a general ledger of any kind being maintained; (f) a tax return being prepared or filed; or (g) sufficiently reliable financial statements in EminiFX's records. That contention remains true as of the date of his Affidavit.

9. With assistance from JS Held, from the documents received I was able to reconstruct actual cash flows in and out of EminiFX, and determine actual week-over-week returns on EminiFX's investments. I was also, generally, able to account for the funds coming into and out of EminiFX. This resulted in the creation of a ledger ("**Ledger**") with sufficient reliability to assess the overall financial condition of EminiFX on a weekly basis to coincide with the return on investment schedule and to ascertain contributions and withdrawals made to and from User<sup>2</sup> accounts. Those conclusions were reflected in the Financial Condition Report.

10. The Financial Condition Report was served on Alexandre, then represented by counsel, via the ECF. Alexandre did not respond to the report. Alexandre did, however, attach the Financial Condition Report to his sentencing report in support of his position on sentencing in his parallel criminal case. *United States v. Alexandre*, No. 22 Cr. 326 (S.D.N.Y.), Dkts 86 & 86-14. I personally attended the sentencing in July 2023 but was not called as a witness.

11. On August 10, 2023, shortly after the sentencing, I filed a motion for approval of procedures for the verification of User deposits into and withdrawals from EminiFX and for filing

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<sup>2</sup> The Motion, the Distribution Plan, and this Affidavit use the terms "investor" and "User" interchangeably, to mean an individual who had an EminiFX account and deposited funds into the EminiFX System, purportedly for purposes of investment.

Non-User claims (the “**Claims Procedures**”) [Dkt. 223-26]. The Court approved the Claims Procedures on August 29 [Dkt. 228]. At my direction, Stretto launched an interactive User portal on the Receivership website (the “**User Portal**”) in September 2023, and gave Users until the end of February 2024 to submit disputes regarding their deposit and withdrawal transactions, among other functions. Over 25,000 Users submitted their transactions, including thousands of Users who disputed at least one and sometimes many transactions. My professionals and I are nearing completion of our review of those disputes, and are targeting October 2024 for releasing those results on the User Portal. If the Motion is approved, I expect that the majority of Users will have their claims fixed soon after our initial review is complete.

12. I have instructed Stretto, as soon as practicable after the filing of this Affidavit on the Court’s docket, (i) to update the User Portal to allow for EminiFX Users to submit feedback to the Distribution Plan; (ii) to publish a new page on the EminiFX website to provide an overview and explanation of the Distribution Plan that I prepared (as well as a link to the Distribution Plan itself);<sup>3</sup> and (iii) to email all known EminiFX Users to announce the filing of the Distribution plan, with a link to the website and directions for how to provide feedback.<sup>4</sup> In each of the User Portal, the website, and in the email, I will advise Users that any feedback they provide will be anonymous and will not impact my analysis of their claim. I intend to review all the feedback that is provided before submitting it to the Court. To the extent that any personal or identifying information is provided, I will redact such information before submitting it to the Court.

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<sup>3</sup> See <http://www.eminifxreceivership.com/distribution>. A true and correct copy of the page, substantially in the form I intend to publish, is attached hereto as Exhibit 2.

<sup>4</sup> A true and correct copy of the email, substantially in the form that will be sent to Users, is attached hereto as Exhibit 3.

**ASSETS RECOVERED AND AVAILABLE FOR DISTRIBUTION**

13. Following my appointment in 2022, my team and I worked to recover the substantial majority of available EminiFX assets into the Receivership. By the end of 2022, I had recovered just under \$61 million in cash from frozen accounts and substantial amounts of cryptocurrency. In December 2022, I proposed to liquidate the cryptocurrency, which I believed to be too risky an asset for the Receivership to hold [Dkt. 180]. The Court approved my application for the sale procedures [Dkt. 184], and I sold the Receivership's cryptocurrency from January to April 2023, netting a total of approximately \$90 million. In addition to vehicles and office property liquidated, the net total of turned over assets, after liquidation, was just over \$151 million.

14. In 2022, I pursued litigation related to the nascent real estate investment portfolio of EminiFX, as well as other claims relating to the return of deposits. I settled most of the litigation in early 2023 and resolved two remaining matters as part of the claims process in 2024, all for a net recovery to the Receivership of approximately \$3.2 million. The Receivership has also earned substantial amounts of interest, and I have paid professional fees and expenses after approval by the CFTC and the Court [Dkt. 47]. As of June 30, 2024, the Receivership had just over \$153 million in cash under management.

15. The \$153 million in cash under management is the primary source of funds expected to be available for distribution under the Plan, the vast majority of which is expected to be paid to Class 3 and Class 3A EminiFX investors. That is the same source of funds that will be used to pay Class 1 administrative expenses, Class 2 tax claims (if any), Class 4 non-investor "other" claims (if any are allowed), and any other classes owing payment under the Distribution Plan.

16. I am continuing to evaluate potential actions against third parties that may result in additional recoveries. In addition, the Distribution Plan sets forth a process by which the

Receivership can recover from Net Winners (EminiFX Users who withdrew more than they actually deposited into the system). Any further recoveries will be distributed in accordance with the Distribution Plan.

## **RECOVERY OF EMINIFX DOCUMENTS AND INFORMATION**

### ***Bank and Cryptocurrency Account Information***

17. During my team's investigation of EminiFX, we were able to recover records from every known major bank or cryptocurrency account known to be used by EminiFX.

18. EminiFX maintained multiple bank accounts to accept deposits from Users. One of the two primary accounts was with Bank of America (x3746). That account was frozen in March 2022, and the funds from which were eventually turned over to the Receivership. The other primary account was TD Bank (x0637), which was closed for general deposits at the end of March 2022, and transferred to another account (x2914), the funds from which were also eventually turned over to the Receivership.

19. I obtained records from both banks reflecting deposits made by Users into each account (User deposits are discussed further below). The records recovered appeared to have been kept in the ordinary course of business. From those records, my team and I found no evidence of any segregated accounts for any individual Users. Rather, the EminiFX records reflected thousands of cash deposits by Users into one of the two EminiFX bank accounts, via wire transfer, check, and most commonly as a "counter credit," meaning that a deposit was made at a brick and mortar branch of one of the two banks.

20. EminiFX also maintained several cryptocurrency accounts, the largest by far was CoinPayments, an offshore cryptocurrency payments company. Transactions through CoinPayments were made via Bitcoin (denominated as "BTC"), typically in on-chain transactions

(*i.e.* cryptocurrency transactions that occur on the blockchain and remain dependent on the state of the blockchain for their validity). The CoinPayments records show deposits and withdrawals into a single EminiFX account held with CoinPayments. CoinPayments did not link transactions to particular EminiFX Users—only to e-wallet IDs. The EminiFX records linked many but not all e-wallet IDs to EminiFX Users.

21. EminiFX also maintained three separate CashApp accounts and, as discussed further below, accounts with the cryptocurrency exchanges Kot4X and Gemini.

22. In July 2022, Alexandre’s counsel provided my team with a list of certain accounts, including those noted above, which served as a validation tool. Based on the list provided by Alexandre’s counsel, and a review of EminiFX’s banking records, my team was able to determine that a majority of EminiFX assets had been turned over by the end of 2022.

#### ***Information Recovered from the EminiFX Database***

23. The main source of information that my team was able to recover from EminiFX was the EminiFX MySQL database (“**Database**”) that was used to maintain User account records. The Database appears to have been kept in the normal course of business.

24. The Database contained a substantial number of records related to EminiFX Users’ contributions, withdrawals, as well as detailed records of the weekly accrual of fixed weekly returns on investment (“**ROI**”) and bonuses.

25. However, the information in the Database was incomplete in other regards. Not every transaction in the database was properly matched to the User that made it. A list of all Users recovered from the Database showed more than 62,000 Users, but not every User had deposited money into an EminiFX account. There was no evidence in the Database of any account statements created or provided to Users, any account agreements, or daily balances.

26. After detailed analysis of the data on that website and comparing it to the actual statements of EminiFX accounts, it became clear to my team that the Database did not contain an accurate or complete ledger of EminiFX accounting records. The Database was instead used primarily to assign values to User Accounts, which in turn formed the basis for the ROI and sponsor bonuses that were accrued to User Accounts.

### *Compensation Plan*

27. I also recovered two EminiFX Compensation Plans, one dated October 2021 and another dated February 2022, which provided substantial insight into how EminiFX was operated. A true and correct copy of the October 2021 plan as recovered (the “**October 2021 Plan**”) is attached hereto as Exhibit 4. A true and correct copy of the February 2022 plan as recovered (the “**February 2022 Plan**”) is attached hereto as Exhibit 5. Both the October 2021 Plan and the February 2022 appeared to be kept in the normal course of business.

28. The February 2022 Plan provided that the purpose of EminiFX was to provide Users “with an affordable solution that offers easy access to cryptocurrency and Forex trading, . . . using the latest technology available, in this case a roboassisted advisor account (RA3).” [Ex. 5, at 2.]

29. Both the October 2021 Plan and the February 2022 Plan further provided that a User could sign up for an account on the [eminifx.com](http://eminifx.com) website, which created an e-wallet and a trading wallet for the User, and each of these accounts was denominated in US Dollars (USD).

30. Both the October 2021 Plan and the February 2022 Plan provided information about ROI and bonuses, as set forth in more detail below. The ROI that was paid to EminiFX Users every Friday was consistent with the February 2022 Plan’s statement that “EminiFX reserves the right to share the profits between 5.00%-9.99% weekly from prior week gains.” [Ex. 5, at 6.]

***Source Code Used to Operate EminiFX***

31. My team was able to recover a copy of the source code (the “**Source Code**”) used to run the EminiFX platform from the service hosting the EminiFX website. The Source Code appears to have been kept in the ordinary course of business. I have personally reviewed certain files in the Source Code, and I did not find any evidence reflecting the existence of any automated investment advisor.

***Interviews with EminiFX Employees***

32. In May 2022, soon after my appointment as temporary receiver of EminiFX, I conducted interviews of several employees of EminiFX, including employees in the accounting and customer service departments.

33. From those interviews, I learned that the primary purpose of the accounting department at EminiFX was to assist EminiFX Users with crediting deposits they made directly into the EminiFX accounts.

34. I have not found any evidence that EminiFX kept a ledger or any accounting records. Neither Alexandre nor EminiFX’s Chief Financial Officer, Clarelle Dieuveuil (Alexandre’s wife), has provided me with accounting records of any kind.

**PRE-RECEIVERSHIP OPERATION OF EMINIFX**

35. From my personal review of the bank and cryptocurrency records, the Source Code, and other documents recovered from EminiFX and its insiders and employees; my interviews with EminiFX employees; and my review and supervision of various analyses performed by JS Held, I have developed an understanding of how EminiFX functioned prior to my appointment.

36. EminiFX was established as a “multi-level” investment club on or about September 2021. A User could sign up for an account on the eminiFX.com website, which created an e-wallet and a trading wallet for the User. Users purportedly earned a weekly ROI of between 5.00% and

9.99% per week (though, as discussed below, this ROI was not based on actual investment activity). Generally, Users were recruited to EminiFX by other Users, and commission bonuses were applied based on a User's recruits, plus all their recruits, and so on down for each level. Users were able to log into the system and view a highly polished dashboard that included their account balances, the weekly EminiFX ROI, the commissions paid, and other information.

### *User Deposits*

37. Users would fund their EminiFX accounts using several methods, though two were most common. First, Users would contribute USD by cash or wire directly into one of EminiFX's primary bank accounts with TD Bank or Bank of America. When Bank of America froze EminiFX's account on or about March 14, 2022, just over \$27 million had been deposited there by EminiFX Users. Around that same time, just over \$51 million had been deposited into the TD Bank account, including over \$1 million deposited directly by Users into Alexandre's personal TD Bank account.

38. All of the funds that were deposited in the TD Bank and Bank of America accounts by Users were commingled in the respective TD Bank or Bank of America account. At various points in time, EminiFX transferred millions of dollars of User deposits among its various accounts. All EminiFX expenses were paid from the same accounts that held the Users' deposits.

39. The TD Bank account was closed at the end of March 2022. I recovered from EminiFX's records, which appears to have been kept in the ordinary course of business, an internal message from Eddy Alexandre to the EminiFX finance/accounting team, sent on or about March 20, 2022, stating:

TD Bank Closure updates: Greetings to you all! This morning, I went personally to the bank to BLOCK any pending transactions in the main TD BANK account to prepare the complete closure in 3 days. We are now officially done with that account ending with 0637. We have transferred the funds to the second TD Bank



account that will NOT accept deposits from members as a form of funding for packages. I have waited until after the payroll was processed to move forward. VERY IMPORTANT to take notice of that critical step. Best regards, Eddy Alexandre | Pres/CEO.

A true and correct copy of the foregoing message is attached hereto as Exhibit 6. I recovered a similar message from EminiFX's records, which appears to have been kept in the ordinary course of business, from Clarelle Dieuveil, EminiFX's Chief Financial Officer, to the EminiFX finance/accounting team, sent on or about March 28, 2022:

CRITICAL WARNING: As of today MONDAY MARCH28th any attempt to deposit funds into EminiFX' "closed" bank accounts at Bank of America ending in 3746 and TD BANK ending with 0637 will cause your account to be permanently blocked by accounting and all of your funds returned to you. Share that notice with your family and friends. EminiFX, Inc. Administration

A true and correct copy of the foregoing message is attached hereto as Exhibit 7.

40. Following the closure of those two accounts, based on information provided in my review of User's transactions, corroborated by records recovered from the Database, there was a substantial increase in funding of User accounts from deposits of cash (currency) at the physical office of EminiFX located on 34th Street in Manhattan.

41. The second primary method for making deposits was by sending EminiFX funds via the CoinPayments system. Over \$180 million in contributions were made to EminiFX's CoinPayments account by EminiFX Users, the majority of which came after the suspension of EminiFX's Bank of America account and the closure of the TD Bank x0637 account. The amount of the contribution was converted from BTC to USD for purposes of the User's account dashboard only, but the contribution remained in the CoinPayments account, held as Bitcoin.

42. All of the cryptocurrency that was deposited in the EminiFX CoinPayments account was commingled with other investor deposits. Three of the largest withdrawals from the CoinPayments account were transfers to EminiFX's Kot4X and Gemini accounts.

43. EminiFX's CashApp accounts received User contributions of approximately \$1.4 million, although the usage of this account decreased beginning in March 2022.

44. Attached hereto as Exhibit 8 is a true and correct copy of a summary chart I prepared with a team at JS Held, analyzing the bank and cryptocurrency records held in the ordinary course of business, to determine the User deposits by week and by account into EminiFX. This chart is a summary of voluminous records of EminiFX that cannot be conveniently examined in Court, and was also attached as Exhibit 8 to the Financial Condition Report. Although not every deposit reflected has been attributed to an individual User or will be, the vast majority of the deposits reflected in Exhibit 8 have been attributed to individual Users.

#### *User Withdrawals*

45. Users were generally able to withdraw from their total account value, and thousands did so. Because a User's total account value was available for withdrawal, any such withdrawals could include purported ROI and/or bonuses (discussed further below), and some withdrawals did include ROI and/or bonuses.

46. Based on my review of the earnings table in the Database, discussed *infra*, a User's withdrawal would reduce the balance in their account that was used to calculate the ROI, and a User could withdraw or transfer funds in excess of their total net deposits. The Transaction Verification Process has revealed that a substantial number of Users withdrew amounts in excess of their deposits, even accounting for the thousands of deposit transactions submitted via the User Portal.

47. Based on my review of the CoinPayments records and the TD Bank and Bank of America bank statements, and my supervision of JS Held performing analysis at my direction, approximately \$34 million was withdrawn from EminiFX.

48. The vast majority (98%) of withdrawals were completed via CoinPayments from the same EminiFX account into which deposits were made and commingled. There was also no indication in the records that my team and I have reviewed that the proceeds from any EminiFX investments were deposited or transferred into the CoinPayments account. My analysis of the CoinPayments records and other records indicates that all or the vast majority of withdrawals were paid to EminiFX investors using an account solely containing the deposits of other EminiFX investors.

49. Attached hereto as Exhibit 9 is a true and correct copy of a summary chart I prepared with a team at JS Held, analyzing the bank and cryptocurrency records held in the ordinary course of business, to determine the User withdrawals and net deposits by week and by account into EminiFX. This chart is a summary of voluminous records of EminiFX that cannot be conveniently examined in Court, and was also also attached as Exhibit 9 to the Financial Condition Report. Although not every withdrawal reflected has been attributed to an individual User or will be, the vast majority of the withdrawals reflected in Exhibit 9 have been attributed to individual Users.

### ***ROI and Bonuses***

50. Each Friday beginning on October 22, 2021, Users' account balances would be increased by a weekly ROI accrual, which was a fixed number between 5.00% and 9.99%, and purportedly represented a "share [in] profits . . . from prior week gains" [Ex. 5, Feb. 2022 Plan, at 6]. Over time, the total amount of ROI accrued each week grew substantially, from less than \$200,000 at the beginning of November 2021 to nearly \$33 million for the week ending April 8, 2022. By the date of my appointment, over \$262 million had been accrued to Users as ROI.

51. Based on my review, and the review of JS Held personnel at my direction of the information in the Database, ROI was paid to Users by creating an entry in the Database's

“earnings” table, which contained over 6.8 million rows. Each entry of that table contained an “invest\_amount” (a total amount “invested” by that User, a number which I determined based on additional analysis to consist of deposits, ROI, and bonuses), a “comm\_perc” (the fixed 5.00 to 9.99% return that was paid to all investors each week), and “comments” (“ROI” for ROI payments, or other values for the bonuses described below).

52. Based on the information in the earnings table from the Database kept in the ordinary course of business, JS Held (acting my direction) and I created a table containing the weekly ROI and the total ROI paid to Users in the earnings table each week from October 2021 to May 2022. A true and correct copy of that table, which is a summary of voluminous records of EminiFX that cannot be conveniently examined in Court, and also contains additional information as discussed below, is attached hereto as Exhibit 10 (also attached as Exhibit 3 to the Financial Condition Report).

53. In addition to ROI, several types of bonuses were also credited to Users in the “earnings” table based on the referral of additional Users to the EminiFX platform, reflecting the multi-level nature of EminiFX. Based on my review of the “user\_registration” table in the Database, which contained almost 62,000 rows, and the February 2022 Plan, a User would be considered a “sponsor” of a User they referred (the “affiliate”), over time creating a complex “sponsor tree”—with Alexandre at the top. Bonuses were awarded for direct referrals of new affiliates, indirect referrals by a sponsor’s affiliates, and when affiliates earned ROI, among other scenarios. Specifically, the following bonuses were awarded to Users in the following amounts:

**Direct Referral Bonuses (\$23.4 million):** Accrued to Users who directly referred new EminiFX Users, in a fixed amount based on the package purchased (*i.e.*, amount paid to EminiFX by the new User).

**Indirect Referral Bonuses (\$2.4 million):** Accrued to Users whose “affiliates” referred new Users, throughout the multilevel “sponsor tree.”

**Weekly Profits Pairing Bonuses (\$28.7 million):** Accrued to Users whose affiliates earned ROI each week, throughout the multilevel “sponsor tree.”

**Monthly Residual Income (\$0.4 million):** Accrued to Users whose affiliates paid service fees, throughout the multilevel “sponsor tree.”

**Fast Track / Rank Bonuses (\$1.7 million):** Accrued to Users who referred new Users within 45 days of registering.

54. Ultimately, the total amount accrued to Users in referral bonuses was \$56.6 million.

A summary of the bonuses paid to Users, as reflected in the “earnings” table from the Database that was kept in the ordinary course of business, is included in Exhibit 10.

### *Internal Transfers*

55. Users were also able to transfer funds to other Users through the EminiFX System, and often did so. Such transfers were generally reflected in the “transfers” table, which contained “sender\_user\_id,” the “receiver\_user\_id,” a date, an amount (the gross amount transferred out), a fee (almost always 0.75%), and a “transfer\_amount” (the net amount transferred in). There were over 45,000 transfers with a total transfer\_amount of over \$77 million. The median transfer amount was approximately \$500.

56. Based on my review of EminiFX records, and my review of the information provided by EminiFX Users as part of the Claims Procedures, a transfer would decrease a User’s total EminiFX balance, which itself consisted of deposits, withdrawals, ROI, bonuses, and other transfers. An internal transfer could, therefore, consist of actual deposits, fictitious ROI, bonuses, or some combination of the foregoing.

57. The EminiFX records my team and I have recovered do not indicate the existence of daily balance records, which would be necessary for my team and I to attempt to determine how much of any internal transfer consisted of actual deposits and how much consisted of fictitious ROI and bonuses, neither of which reflected actual dollars into EminiFX.

58. I understand that the inter-account method has been used in other cases, most notably the *Madoff* case, to determine which portion of an internal transfer should be credited to the transferee and deducted from the transferor, and which portion should be disregarded. Given the relatively low median value of each transfer (\$500), and the high volume of transfers (over 45,000), it would be cost prohibitive for my team and I to apply the inter-account method to internal transfers. Even if such a calculation were not cost prohibitive, it is not in my judgment fair and equitable to deduct from a transferor a portion of their actual deposits to enable me to credit the transferee (and avoid double counting the funds) when the transferor may have thought that he or she was transferring actual funds, based on the User's account balance, at the time that the transfer was made. Given that the inter-account analysis is not practicable under the circumstances of this case, the need to avoid crediting ROI and bonuses for use in distributions, and the need to avoid double counting deposits, I have determined that the most equitable solution is to disregard internal transfers for the purpose of calculating a Class 3 or Class 3A Claim.

#### **EMINIFX INVESTING ACTIVITY**

59. I have identified three primary sources of investing activity using EminiFX funds. The first was the transfer of just over \$9 million in EminiFX funds to a personal brokerage account in Alexandre's name beginning at the very end of 2021. The second was a substantial investment beginning in April 2022 in real estate on Long Island, largely consisting of single-family homes in foreclosure. The third, while not an active investment, was EminiFX's exposure to the price of Bitcoin due to the net accumulation of User deposits in the CoinPayments account that was also used for withdrawals. I analyzed the performance of each these investments to determine if any combination of them could be used to support the ROI that was paid each week.

*Interactive Brokers Investments*

60. Based on my review of EminiFX's records, I learned that Alexandre maintained an Interactive Brokers account in his own name (the "**IBKR Account**"), rather than in EminiFX's name, and made contributions to that account from his personal TD account. However, of the \$9,040,000 transferred from the Alexandre TD Bank account to the Interactive Brokers account beginning on or about December 30, 2021, at least \$9,010,000 is directly traceable to EminiFX funds. The vast majority of the active trading and investing occurred in this account.

61. I obtained directly from Interactive Brokers and personally reviewed the daily trading records for the IBKR Account from December 30, 2021 to May 13, 2022. I created summary tables of the daily and weekly trading gains and losses in the account. My analysis of the trading activity indicated substantial losses in January 2021 of over \$4.7 million, followed by oscillating gains and losses in February and March, and substantial additional losses in April and the first half of May. The daily gains and losses were highly volatile, with the standard deviation of the daily returns exceeding 25% for the trading period.

62. On May 13, 2022, to ensure that no further losses were incurred, I instructed that the IBKR Account be liquidated. By the time I caused the account to be liquidated, it had lost over \$7.2 million—equivalent to about 80% of the total amount of EminiFX funds deposited into it.

63. Attached as Exhibit 11 is a true and correct copy of the weekly trading gains and losses in the IKBR Account that I prepared (which is chart is a summary of voluminous records of EminiFX that cannot be conveniently examined in Court, and was also attached as Exhibit 11 to the Financial Condition Report). None of the weekly gains and losses in the IKBR Account had any correlation to the ROI that was paid for that week.

### *Real Estate Investments*

64. In the weeks before my appointment as Receiver, EminiFX entered into 48 separate contracts to purchase various properties in Long Island, for a total purchase price of \$24.2 million, with 46 of those being sold through foreclosure auctions in Nassau and Suffolk County (“**Foreclosure Properties**”). EminiFX paid deposits of approximately 10%, in each of the 48 properties, for a total payment of just over \$2.5 million. The two non-foreclosure deposits, totaling \$192,000, were paid directly by EminiFX. The 46 foreclosure deposits were paid via a finder to which EminiFX had transferred \$2,679,000, with \$2,310,400 of that transfer used for the payment of deposits and the excess of \$368,600 used for service fees.

65. None of these contracts had closed by the time I was appointed, and one had been cancelled with the \$50,000 deposit being returned to EminiFX on May 9, 2022. After I was appointed, I caused Broker Price Opinions to be obtained on each of the 46 Foreclosure Properties, half of which showed values above the purchase price, and half of which showed values below the purchase price. I also tested the market by instructing the broker to market the seven properties that had the highest premium, and no offers were received. I then settled with the counterparties for 44 of the 46 Foreclosure Properties, obtaining a return of the deposits paid and rescinding the contracts.

66. As none of the real estate investments had even closed, let alone showed a profit, by the time of my appointment, I identified no correlation between the real estate investments and the ROI paid each week.

### *Cryptocurrency Exposure*

67. As noted, one of the primary methods that Users used to contribute funds to EminiFX, and to receive withdrawals from EminiFX, was via the offshore CoinPayments



cryptocurrency exchange. Contributions and withdrawals were transacted in Bitcoin, and while Users generally saw an equivalent USD value added to their User Account when they contributed using Bitcoin, no such conversion of Bitcoin to USD actually occurred.

68. EminiFX's Bitcoin balance accumulated over time, increasing its exposure to Bitcoin's volatile market price. During the period of EminiFX's operations, the price of Bitcoin was highly volatile and generally trending downward, declining over 57% from its high of \$68,790 on November 10, 2021, to a closing price of \$29,283 on May 12, 2022, the day of the last transaction on CoinPayments before the account was frozen and placed into suspense.

69. At my direction, JS Held analyzed the transaction records recovered from CoinPayments to determine the weekly deposits and withdrawals of Bitcoin into the EminiFX CoinPayments account, and marked to market the net activity in USD. By the time I was appointed, the changes in the marked to market account value of the CoinPayments account (due to changes in the price in Bitcoin) resulted in a cumulative \$40 million decline in value by the week ending May 13, 2022. A true and correct copy of a chart that JS Held and I prepared summarizing the weekly Bitcoin increases and decreases in the EminiFX CoinPayments account is attached hereto as Exhibit 12 (which is a summary of voluminous records of EminiFX that cannot be conveniently examined in Court, and was also attached as Exhibit 1 to the Financial Condition Report).

70. Moreover, EminiFX also invested small amounts in the cryptocurrency exchanges Kot4X and Gemini, both of which resulted in additional losses. In April 2022, EminiFX invested \$960,262 in Kot4X. By May 13, 2022 the account had declined in value by almost \$300,000, a 31% decrease. EminiFX deposited a net amount of \$633,641 into a Gemini account during the

week ending April 1, 2022; by May 13, 2022, the account declined in value by over \$250,000, a 41% decrease.

***Summary of Investment Activity***

71. Attached as Exhibit 13 hereto is a true and correct copy of marked to market increases and decreases in EminiFX's holdings from September 2021, that JS Held and I prepared in May 2023. The chart is a summary of voluminous records of EminiFX that cannot be conveniently examined in Court, and was also and was attached as Exhibit 10 to the Financial Condition Report. The vast majority of the weekly changes were decreases, with some increases occurring in February and March 2022. However, there was no correlation between the cumulative investment performance of EminiFX's holdings and the ROI paid for each week. Excluding the CoinPayments account (which appears to have been a passive investment at most), the total amount of active invested funds was approximately \$14 million, the vast majority of which was lost.

**PONZI SCHEME CONCLUSIONS AND IMPLICATIONS**

72. Based on my analysis of the corporate structure of EminiFX, flow of funds in and out of EminiFX, the investing activity of EminiFX, and the payment of ROI and bonuses, I have concluded, for the purposes of the several critical issues related to the formulation of the Distribution Plan, that EminiFX operated as a Ponzi scheme. My conclusion is central to three primary aspects of the relief I am seeking from the Court in this Motion: (a) an EminiFX User's claim (Class 3/3A) should be based solely on his or her deposits and withdrawals into EminiFX and should exclude ROI, bonuses, and internal transfers; (b) the rising tide methodology is preferable to the net investment methodology given the commingling and the use of deposits to fund withdrawals; and (c) because EminiFX was a Ponzi scheme, those who withdrew more than

they deposited (net winners) received a fraudulent transfer equal to their net winnings even if I presume their good faith.

73. To date, I have seen no evidence that EminiFX Users signed an investment contract, had their accounts segregated, were provided with account statements, or that there was any differentiation of classes of Users. Nor have I discovered any accounting records of any kind maintained by EminiFX.

74. EminiFX funds were all commingled within the various accounts described above, and funds were moved between different bank accounts. In addition, using the voluminous bank account records recovered from TD Bank, I have identified at least \$15 million in transfers from the TD Bank x0637 account to Alexandre's personal TD Bank accounts x5365 and x2539, as summarized in the following table:

| <b>EMINIFX TO ALEXANDRE TD BANK TRANSFERS</b> |                     |                       |                            |
|---|---------------------|-----------------------|----------------------------|
| <b>Date</b>                                   | <b>Amount</b>       | <b>Source Account</b> | <b>Destination Account</b> |
| 11/18/2021                                    | \$24,500            | EFX TD x0637          | Alexandre TD x2539         |
| 12/23/2021                                    | \$700,000           | EFX TD x0637          | Alexandre TD x5365         |
| 12/23/2021                                    | \$325,000           | EFX TD x9920          | Alexandre TD x5365         |
| 01/11/2022                                    | \$1,000,000         | EFX TD x0637          | Alexandre TD x5365         |
| 01/11/2022                                    | \$1,000,000         | EFX TD x0637          | Alexandre TD x5365         |
| 01/24/2022                                    | \$6,000,000         | EFX TD x0637          | Alexandre TD x5365         |
| 04/05/2022                                    | \$6,000,000         | EFX TD x0637          | Alexandre TD x5365         |
| <b>Total</b>                                  | <b>\$15,049,500</b> |                       |                            |

The transfers in December 2021 and January 2022 were used to fund Alexandre's personal Interactive Brokers account almost immediately after they were completed. The transfer in April 2022 was completed immediately before a contract was entered to purchase a large residence for \$5.35 million, signed by Alexandre but in the name of Alexandre Estate LLC, and for which a \$535,000 payment into escrow was made from Alexandre's personal TD Bank x5365 account. There were also User deposits made directly into Alexandre's personal TD Bank x5365 account.

75. There was only one EminiFX corporate entity, and no corporate separateness or segregation between User funds and EminiFX funds. All withdrawals were paid from commingled EminiFX funds consisting of User deposits.

76. I have concluded that the ROI and bonuses awarded to Users had no connection to EminiFX's investment returns. I therefore do not view ROI and bonuses as legitimate or actual liabilities of EminiFX or of the Receivership for any purpose.

77. While Users were credited or accrued substantial amounts in "ROI" and other multi-level marketing bonuses, exceeding \$319 million, the total amount of net decreases in marked to market account values EminiFX incurred over the course of its operation were over \$49 million. JS Held, at my direction, and I have prepared a report, which is a summary of voluminous records of EminiFX that cannot be conveniently examined in Court, comparing (i) the total stated value of the User accounts with the ROI and bonuses, based on our construction of the EminiFX records available to us, with (ii) the mark to market value of EminiFX holdings, and found that the gap between those two number was substantial and growing over time. A true and correct copy of that report is attached hereto as Exhibit 14 (also attached as Exhibit 5 to the Financial Condition Report), and a true and correct copy of the weekly performance reports summarizing that information, also a summary of voluminous records of EminiFX that cannot be conveniently examined in Court, is attached hereto as Exhibit 15 (also attached as the Annex to the Financial Condition Report).

78. I have prepared a model to estimate what the aggregate User account balances would have been if I had taken the stated value of the EminiFX accounts at the time of the shutdown and applied a weekly ROI of 5.00% to 9.99% to those account balances for the 117-week period from the shutdown of EminiFX through the date of this declaration. The model assumes

no additional deposits or withdrawals, and I have overestimated the cash and real estate asset appreciation.<sup>5</sup> Using a 5.00% ROI, the total stated value of the EminiFX accounts would be over \$165 *billion*, which would imply a value of over \$44 million per Bitcoin to justify such ROI. At 7.5% ROI, those numbers grow to \$2.6 *trillion* and \$700 million per Bitcoin. At 9.99% ROI, the numbers are \$37.8 *trillion* and \$10 billion per Bitcoin. In any scenario, the total stated value of EminiFX accounts would consist almost exclusively of ROI, or fictitious profits.

79. Further, even if I had chosen to keep the recovered Bitcoin in the volatile cryptocurrency market and waited to sell it at a relatively high-water-mark price \$70,000, there still would have been a \$225 million shortfall between the amount recovered and the stated value of the EminiFX accounts at the time of the shutdown. The results of these models are a further indication to me that the ROI was not connected to any actual investment returns and that the ROI numbers applied to Users' accounts represented fictitious profits.

80. Users' withdrawals included both deposits of funds as well as fictitious earnings and bonuses, as reflected in numerous EminiFX data sources including the "earnings" table that showed the balance upon which ROI was calculated each week for each User. Some Users withdrew more than they deposited, including fictitious earnings and bonuses. Withdrawals were paid from the same pool of commingled accounts into which deposits were made, almost exclusively from the CoinPayments account.

81. My conclusion, based on the foregoing review and analysis, is that EminiFX operated as a Ponzi scheme, as the source of payments to Users was solely the cash infused by

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<sup>5</sup> In reality, as I have explained above and in prior status reports [*e.g.*, Dkt. 71], the real estate portfolio would likely have lost money. In any event, even assuming wildly unrealistic overestimates, any hypothetical real estate appreciation has no material effect on the model's outcome.

new investors, and the purported business operations of EminiFX incurred substantial losses and no profits or earnings, despite showing regular profits of 5-10% per week to investors.

82. In my judgment, because EminiFX was a Ponzi scheme, it would be inequitable to include ROI and bonuses in Class 3 and Class 3A in calculating Users' claims. It is also my judgment that internal transfers should not be recognized for the purpose of calculating Users' claims given that there is no practical or economically efficient method for disentangling the portion of internal transfers that consist of ROI and bonuses.

83. In my judgment, because EminiFX was a Ponzi scheme, the most equitable method of distribution to Class 3 and Class 3A Users is the rising tide methodology. Withdrawals were paid from the same pool of commingled User deposits that will be used to pay Class 3 and Class 3A claims, and thus withdrawals should be treated as equivalent to distributions, which is accomplished by using a rising tide methodology.

84. I considered using a net investment methodology as well, but determined that it would result in a lower distribution to the vast majority investors who did not withdraw any money pre-receivership, to the benefit of those who did withdraw. Based on the results from the ongoing claims process, I have modeled the difference between the rising tide and net investment for four different distribution scenarios: aggregate distributions to Users of \$50 million, \$80 million, \$110 million, and \$140 million, attached hereto as Exhibit 16. Although actual results may vary, the model I have constructed demonstrates how Users with zero withdrawals will generally receive higher distributions under a rising tide model, and those who withdrew will generally receive lower distributions under a rising tide model.

85. I understand that characterizing EminiFX as a Ponzi scheme means that transfers out are generally presumed to be fraudulent, such that I may have viable claims against net winners

who withdrew more than they deposited, even if I presume that such net winners received their withdrawals in good faith and without knowledge of the scheme. In my judgment, a settlement of 50% of net winnings (withdrawals less deposits) from the net winners who I do not otherwise believe acted in bad faith, provided that such settlement is completed by June 30, 2025, would be fair and in the best interest of the Receivership estate.

### **THE EMINIFX CLAIMS AND DISTRIBUTION PROCESS**

86. I have directed my team to focus our forensic efforts on addressing all disputed transactions based on the Users interaction with the User Portal (*see supra* ¶ 11), including deposits that Users have added, by reviewing information and documents submitted by Users. Though these disputed transactions made up a minority of the aggregate total of transactions, there are over 10,000 of them. I am personally supervising the review of each of these disputed transactions. Reviewing each of these transactions is an intensive process, and one that is not easily subject to automation, often requiring a careful review of what a User has submitted, what they are claiming, and identifying how best to use the documents in my possession to corroborate those claims.

87. Once the initial disputed transaction review process is complete, I have directed Stretto to launch a new version of the User Portal (“**Portal 2.0**”) that will allow all Class 3 and Class 3A Claimants to submit the payment information necessary to make a distribution and to respond to any disputed transactions that I have not been able to resolve. I have also instructed that Portal 2.0 contain a feature (the “**Transfer Deposit Tool**”) that will allow Users to request that deposits be transferred to other Users if there is an inter-user dispute or an internal transfer issue between them. That feature will be functional for a limited period of time (likely 20-30 days) so that I can thereafter fix the allowed User claim amounts and prepare to commence distributions.

88. I will launch Portal 2.0 on or around the same time I file an initial Schedule of Disputed Transactions with the Court. I am targeting October 2024 for the launch of Portal 2.0. I

expect that the vast majority of Class 3 and Class 3A Claims will be fixed shortly after the period to use the Transfer Deposit Tool runs, likely in mid-November.<sup>6</sup> That is point where I will be able to set an initial rising tide percentage and begin distributions if the Distribution Plan has been approved.

89. I have proposed a convenience class (Class 3A) for Users who have deposited less than \$1,000 into EminiFX (“**Convenience Class Users**”). Based on the preliminary analysis I conducted with JS Held, I expect this class to include around 8,000 to 12,000 claimants who have deposited between \$3 million and \$6 million total. Given that any subsequent increase of the rising tide percentage would likely result in small distributions to such Users that would likely not be economical to process, I believe it is equitable and in the best interest of the estate to make a single distribution to Convenience Class Users at a rising tide percentage higher than the initial rising percentage for Class 3 Users, but one that will likely not be increased over time.

90. In my judgment, given the large number of Class 3 and Class 3A User Claims, it is not necessary to have every User Claim be fixed before setting the initial rising tide percentage. My goal is to begin distributions to those Class 3 and Class 3A claimants whose claims are fixed and who are otherwise not held for further review, once those claims are fixed and the Distribution Plan is approved. I intend to maintain sufficient reserves to catch up additional Class 3 and Class 3A claimants as their claims are set throughout 2024 and into 2025.

91. In addition to the Class 3 and Class 3A Claims, there were eight non-duplicative Proofs of Claim submitted by Non-Users in accordance with the Claims Procedures. As of the date of this Motion, all but one of those Proofs of Claim has been resolved and satisfied. The details of these settlements, and my reasons for disallowing the one unresolved Non-User Claim,

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<sup>6</sup> These targeted dates are projections only and are subject to change.



are described in the Non-User Claims Report, filed on August 2, 2024 [Dkt. 369]. Although I have disallowed the remaining claim, the estate is sufficiently funded to satisfy that claim if all or any portion is allowed into Class 4, with minimal impact on the rising tide percentages applicable to the Class 3 and Class 3A claims.

92. No Class 2 tax claims have been filed as of the date of this Affidavit. I have been consulting with my tax advisors on the proper amount of reserves to hold given the applicable pre-receivership and post-receivership taxation issues. My tax advisors and I have also been actively working with the Internal Revenue Service on a resolution to the pre-receivership taxation issues, but the timing and outcome of such efforts is uncertain. Rather than wait for these liabilities to be resolved before any funds are distributed, I believe that it is prudent and in the best interest of the estate (and its thousands of stakeholders) to make an interim initial distribution as set forth in the Motion and the Distribution Plan, and to increase the rising tide percentage if and when I am able to release additional tax reserves.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on this 9th day of August 2024 at New York, New York.



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David A. Castleman

*CFTC v. Alexandre and EminiFX, Inc.*,  
Case No. 22 Civ. 3822 (S.D.N.Y)

# EXHIBIT 1

**Receiver's Proposed Distribution Plan**  
*Subject to Court Approval*

**RECEIVER'S PROPOSED PLAN 09 AUG 2024  
SUBJECT TO COURT APPROVAL**

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

COMMODITY FUTURES TRADING  
COMMISSION,

Plaintiff,

-against-

EDDY ALEXANDRE and  
EMINIFX, INC.,

Defendants.

22 Civ. 3822 (VEC)

**THIS DISTRIBUTION PLAN REMAINS SUBJECT TO COURT APPROVAL AND  
THUS IS SUBJECT TO MATERIAL CHANGE. UPON COURT APPROVAL THE  
RECEIVER INTENDS TO FILE A MODIFIED VERSION OF THIS DISTRIBUTION  
PLAN REMOVING THIS DISCLAIMER AND MAKING ANY OTHER  
APPROPRIATE CHANGES CONSISTENT WITH THE COURT'S APPROVAL.**

**RECEIVER'S DISTRIBUTION PLAN**

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Dated: August 9, 2024

**RECEIVER’S PROPOSED PLAN 09 AUG 2024  
SUBJECT TO COURT APPROVAL**

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**INTRODUCTION**

This Distribution Plan governs the process by which the Receiver will make distributions of Receivership Assets to eligible claimants, the vast majority of whom are investors (*i.e.*, users) in EminiFX.<sup>1</sup> This Distribution Plan sets forth the eligibility criteria for EminiFX investors and claimants to receive distributions, how distributions will be calculated, the timing and procedure with respect to investor distributions, and other items as set forth herein:

**Claims and Classification.** An investor claim shall be comprised of only investments made into the EminiFX System, and exclude any purported profits, interest, bonuses, internal transfers or other similar amounts shown in the EminiFX System. Investors who deposited less than \$1,000 into the EminiFX System will be grouped into a separate “convenience class” and will receive a one-time distribution that will be at a higher percentage than the initial distribution to other investors, but with no expectation of receiving additional distributions. The Distribution Plan will also set forth the classification and priority of claims, including priority status for Administrative Claims and Tax Claims, and subordination of certain Claims, to be determined through subsequent litigation as necessary.

**Calculating Distributions.** The Distribution Plan will use the “rising tide” method to calculate distributions, which provides that a distribution is calculated as a percentage (the “rising tide”) of the investor’s total investment (deposits) into the EminiFX System, and then subtracting both the Pre-Receivership Withdrawals and any other post-receivership distributions already received. This method effectively treats Pre-Receivership Withdrawals as equivalent to post-receivership distributions. For investors who deposited more than \$1,000, the Receiver will periodically increase the rising tide percentage over time, making additional distributions to investors with Allowed Claims. For investors who deposited less than \$1,000, they will be placed in a separate sub-class (a “convenience class”) and receive a single distribution that is higher (as a percentage of the Allowed Claim) than the initial distribution percentage of claimants with Allowed Claims above \$1,000. However, the Receiver expects that to be a “one-time” distribution received by such “convenience class” investors.

**Procedure and Timing of Distributions.** The Distribution Plan will set forth the procedure and timing for investor distributions. The Receiver’s goal is to commence an initial distribution to EminiFX investors by the end of 2024 and into 2025, and to continue making distributions to investors as their Transactions are fully resolved and as additional Receivership Assets become available for distribution. The initial distribution will be to those investors whose Transactions have been verified and their Claims allowed in accordance with the previously approved Claims Procedures by a set date (and whose Claim is not being held for further review). Once an investor’s disputed Transactions are resolved, newly Allowed Claims will be entitled to receive the same percentage distribution as all other similarly classified investors. The initial “rising tide” percentage and distribution will be calculated in the business judgment of the Receiver, accounting

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<sup>1</sup> Capitalized terms used herein have the meanings set forth in Article I.A. All references to “investor” or “investment” throughout are for convenience only and are not intended to affect any characterization of the relevant transactions for tax purposes or otherwise. “Investor” is used interchangeably with “User” herein.

**RECEIVER'S PROPOSED PLAN 09 AUG 2024  
SUBJECT TO COURT APPROVAL**

for the total Cash included in the Receivership Assets, less appropriate reserves for disputed Claims, estimates for Tax and Administrative Claims, and any other appropriate reserves.

**Litigation Claims, Temporary Holds, and Setoffs.** The Distribution Plan shall set forth the Causes of Action that shall be retained by the Receiver for future prosecution and ability to resolve such Causes of Action, both in his sole discretion. The Distribution Plan will also set forth the procedures by which the Receiver can identify Holders of Claims that otherwise may be entitled to a distribution, and temporarily withhold such distribution for a set period of time (a "review hold") while the Receiver investigates whether the Receiver may have affirmative Causes of Action against such Holder or whether the Holder's Claim, in whole or in part, should be subject to equitable subordination, consolidation, or setoff.

**Additional Procedures.** The Distribution Plan shall set forth additional procedures for making distributions to investors, including the handling of claims of deceased investors and investors for whom there may be a lien on assets, de minimis distributions, and distributions that are returned to the Receiver as undeliverable.

**ARTICLE I.  
PLAN DEFINITIONS AND RULES OF INTERPRETATION**

**A. Definitions**

**"Administrative Claim"** means any EminiFX Claim to the extent that it asserts an entitlement to priority in payment under applicable law in connection with the administration of the Receivership Assets or otherwise on the basis that it arises or is deemed to arise after the Receivership Date. For the avoidance of doubt, Administrative Claims shall include claims for compensation by EminiFX Professionals.

**"Alexandre"** means Eddy Alexandre, a defendant in the CFTC Enforcement Action.

**"Allowed"** means, (i) in respect of any User Claim or User Convenience Class Claim, any such EminiFX Claim with respect to which no Transactions upon which the EminiFX Claim is based (either deposits or withdrawals) remain disputed in accordance with the terms of the Claims Procedures and (ii) in respect of all other EminiFX Claims, any such EminiFX Claim determined to be "allowed" in accordance with the terms of the Claims Procedures or otherwise expressly determined to be "allowed" pursuant to a Final Order of this Court, in the allowed amount, priority and/or classification so determined. Notwithstanding the foregoing, no EminiFX Claim or any portion thereof shall be Allowed if it remains subject to the "review hold" or Litigation Demand described in Article IV.E.

**"Cash"** means the lawful currency of the United States of America and its equivalents.

**"Cause of Action"** means any action, claim, cause of action, controversy, third-party claim, dispute, proceeding, demand, right, action, lien, indemnity, contribution, guaranty, suit, obligation, objection, liability, loss, debt, fee or expense, damage, interest, judgment, account, defense, remedy, power, privilege, license, and franchise of any kind or character whatsoever, whether known, unknown, foreseen or unforeseen, existing or hereafter arising, contingent or non-



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contingent, matured or unmatured, suspected or unsuspected, liquidated or unliquidated, disputed or undisputed, secured or unsecured, assertable directly or derivatively, whether arising before, on, or after the date hereof, in contract, in tort, in law, or in equity or pursuant to any other theory of law. For the avoidance of doubt, a "Cause of Action" includes: (i) any right of setoff, counterclaim, or recoupment and any claim for breach of contract or for breach of duties imposed by law or in equity; (ii) any claim based on or relating to, or in any manner arising from, in whole or in part, tort, breach of fiduciary duty, or violation of state or federal law, including securities laws, negligence, and gross negligence; (iii) the right to object to or otherwise contest, recharacterize, reclassify, subordinate, or disallow Claims; (iv) any claim or defense including fraud, mistake, duress, and usury, and any other similar defenses; and (v) any state or foreign law fraudulent transfer or similar claim.

"**CFTC**" means the Commodity Futures Trading Commission.

"**CFTC Enforcement Action**" means the action commenced by the CFTC in this Court in the case captioned *Commodity Futures Trading Commission v. Eddy Alexandre and EminiFX, Inc.*, Case No. 22 Civ. 3822 (S.D.N.Y.).

"**Claim**" means any (i) potential or claimed right to payment, whether or not such right is based in equity or statute, reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured; or (ii) a potential or claimed right to an equitable remedy for breach of performance if such breach gives rise to a right to payment, whether or not such right to an equitable remedy is reduced to judgment, fixed, contingent, matured, unmatured, disputed, undisputed, secured, or unsecured.

"**Claims Procedures**" means this Court's *Order (I) Approving Procedures for the Verification of User Contributions to and Withdrawals from EminiFX, (II) Setting a Bar Date for the Filing of Non-User Claims, (III) Establishing Notice Procedures, and (IV) Granting Related Relief*, entered on August 29, 2023, and the procedures approved thereby, as those procedures may be amended from time to time [Dkt. 228].

"**Claims Procedures Motion**" means the *Memorandum of Law in Support of the Receiver's Motion for Entry of an Order (I) Approving Procedures for the Verification of User Contributions to and Withdrawals from EminiFX, (II) Setting a Bar Date for the Filing of Non-User Claims, (III) Establishing Notice Procedures, and (IV) Granting Related Relief*, filed on August 10, 2023 [Dkt. 225]

"**Court**" means the United States District Court for the Southern District New York.

"**Distribution Plan**" means this Distribution Plan, as may be amended from time to time.

"**Distribution Plan Order**" means the Order entered by the Court approving this Distribution Plan as filed or as may be modified by the Court in such Order.

"**Effective Date**" means the date upon which the Court enters the Distribution Plan Order.

"**EminiFX**" means EminiFX, Inc., a defendant in the CFTC Enforcement Action.

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“**EminiFX Claim**” means any Claim with respect to which recovery is sought from or against the Receivership Assets.

“**EminiFX Financial Condition Report**” means that certain *Receiver's Financial Condition Report of EminiFX*, dated May 15, 2023 [Dkt. 199].

“**EminiFX System**” means the EminiFX-branded platform to and from which Users made Contributions and Withdrawals of Funds.

“**EminiFX QSF**” means the qualified settlement fund established from the Receivership Assets pursuant to 26 CFR § 1.468B-1.

“**Equity Interests**” means, in respect of EminiFX, Inc., any ordinary shares, units, common stock, preferred stock, membership interest, partnership interest, or other instrument, evidencing any fixed or contingent ownership interest, whether or not transferable, including any option, warrant, stock appreciation rights, phantom stock rights, redemption rights, repurchase rights, convertible, exercisable or exchangeable securities or other agreements, arrangements, or commitments of any character, contractual or otherwise, to acquire any such interest.

“**Final Order**” means an order or judgment of this Court or another court of competent jurisdiction that has been entered on the docket maintained by the clerk of such court, which is in full force and effect and has not been reversed, vacated, stayed, modified, or amended and as to which (i) the time to appeal, petition for writ of certiorari, or move for a new trial, reargument, or rehearing has expired and as to which no appeal, petition for writ of certiorari, or other proceedings for a new trial, reargument, or rehearing shall then be pending, or (ii) if an appeal, writ of certiorari, new trial, reargument, or rehearing thereof has been sought, such order or judgment shall have been affirmed by the highest court to which such order was appealed, or writ of certiorari shall have been denied, or a new trial, reargument, or rehearing shall have been denied or resulted in no modification of such order, and the time to take any further appeal, petition for writ of certiorari, or move for a new trial, reargument, or rehearing shall have expired; provided, however, for the avoidance of doubt, an order or judgment that is subject to appeal shall not constitute a Final Order even if a stay of such order or judgment pending resolution of the appeal has not been obtained; and, provided, further, that no order or judgment shall fail to be a “Final Order” solely because of the possibility that a motion under Rules 59 or 60 of the Federal Rules of Civil Procedure (or any analogous rule applicable in another court of competent jurisdiction) has been or may be filed with respect to such order or judgment.

“**EminiFX Professionals**” means any professional retained by the Receiver pursuant to an order of the Court.

“**Funds**” means Cash or Bitcoin (BTC).

“**Holder**” means, with respect to any EminiFX Claim, the Person that holds (or held) such EminiFX Claim as of the Record Date or the successor in interest to such Person under valid and enforceable operation of applicable law as determined as such by the Receiver in his sole

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discretion; *provided that* the Receiver shall have no obligation to recognize or honor voluntary transfers of EminiFX Claims by Holders of EminiFX Claims except as provided herein.<sup>2</sup>

**“Litigation Demand”** means a written demand (whether in the form of a demand letter, complaint, motion, or other similar written form) that asserts an actual or potential Cause of Action by the Receiver against the Holder of an EminiFX Claim or otherwise with respect to any EminiFX Claim and includes a short and plain statement of such Cause of Action and the nature of the relief which may be sought by the Receiver.

**“Net Winner”** means any User whose Verified Withdrawal Amount exceeds their Verified User Deposit Amount.

**“Non-User Claim”** means any Claim by any Person not based on that Person’s status as a User which is based on (1) the provision of goods or services to EminiFX that has not been paid in whole; (2) money loaned to EminiFX that has not been paid in whole; (3) unpaid wages, compensation, or other employment benefits that has not been paid in whole; (4) tax liabilities, including those held by federal and state governments, subject to Title 26 of the U.S. Code; (5) primary, secondary, direct, indirect, secured, unsecured, or contingent liability; /or (6) contract, tort, indemnity, reimbursement, subrogation theories, or other legal or equitable theory.

**“Other Claim”** means any Non-User Claim to the extent that such Non-User Claim is not an Administrative Claim, a Tax Claim, or a Subordinated Claim.

**“Person”** means a natural person, corporation, limited liability company, trust, joint venture, association, company, partnership, governmental unit or other entity.

**“Pre-Receivership Deposits”** means, as to a User, deposits of Funds into the EminiFX System prior to the Receivership Date, whether deposited directly or by a third party for or on behalf of a User, net of fees and other transaction costs. For Funds deposited as Bitcoin, the value is converted to US Dollars based on the closing price on the date of deposit.

**“Pre-Receivership Withdrawals”** means, as to a User, withdrawal of Funds from the EminiFX System, whether withdrawn directly by a User or by a third party for or on behalf of a User prior to the Receivership Date, irrespective of the characterization of such withdrawals as interest payments, redemptions, return of principal, or otherwise.

**“Prior Distribution Amount”** means, in respect of any given User Claim, the sum of (i) the Verified User Withdrawal Amount and (ii) the total amount of any distributions by the Receiver to or for the benefit of the Holder of such User Claim at any time.

**“Receiver”** means David A. Castleman, the Court-appointed receiver in the CFTC Enforcement Action, or any Court-appointed successor to David A. Castleman.

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<sup>2</sup> The Receiver intends to publish a form by which purported transferors of deceased Holders of EminiFX Claims may assert their rights and provide supporting documentation. *See* Section V.C.5 herein.

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**“Receivership”** means the federal equity receivership established by one or more orders of this Court entered in the CFTC Enforcement Action.

**“Receivership Assets”** means all assets (including, without limitation, any Causes of Action) of EminiFX or Alexandre that are under the control of the Receiver pursuant to order of this Court or another court of competent jurisdiction (including, without limitation, the EminiFX QSF), and all proceeds thereof.

**“Receivership Date”** means the date of the commencement of the CFTC Enforcement Action.

**“Receivership Preliminary Injunction Order”** means this Court’s *Consent Order for Preliminary Injunction Against Defendants Eddy Alexandre and EminiFX, Inc.* [Dkt. 56].

**“Receivership TRO”** means this Court’s *Order Granting Plaintiff’s Motion for an Ex Parte Statutory Restraining Order, Appointment of a Temporary Receiver, and Other Equitable Relief* [Dkt. 9].

**“Record Date”** means March 1, 2024.

**“Review Hold Expiration Date”** means the later of (i) June 30, 2025, or (ii) the date that is six months after the entry of the Distribution Plan Order, unless extended as set forth herein.

**“Rising Tide Percentage”** means, in respect of any distribution made by the Receiver to Holders of Allowed User Claims, a percentage determined by the Receiver in his sole discretion that applies to distributions to Class 3 User Claims, as may be increased from time to time in accordance with this Distribution Plan. The method for calculating the Rising Tide Percentage is described in Article V.A.

**“Subordinated Claim”** means in respect of an EminiFX Claim or any portion thereof, as applicable, (i) subordinated in accordance with a written agreement signed by the Receiver and the Holder of such EminiFX Claim; (ii) any fine or penalty levied by the CFTC in connection with the CFTC Enforcement Action that is in whole or in part payable by the Receivership or from Receivership Assets, unless the Court orders otherwise; or (iii) that contains consequential or indirect damages, or lost profits, or should otherwise be a subordinated in the interest of equity, consistent with the procedures set forth in Article IV.E.

**“Tax Claim”** means any EminiFX Claim asserted by taxing authorities or other governmental entities in respect of any purported tax liability with recourse to the Receivership Assets (including any pre-receivership tax liabilities and any tax liabilities of the EminiFX QSF) to the extent that such EminiFX Claim is not an Administrative Claim or Other Claim, except to the extent that such EminiFX Claim is a Subordinated Claim.

**“Transaction”** means either a deposit into or a withdrawal from the EminiFX system made by a User, as described in the Claims Procedures Motion.

**“User”** means any Person who created an account within the EminiFX System before the Receivership Date.

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**“User Claim”** means an EminiFX Claim that is based on an alleged investment in the EminiFX System prior to the Receivership Date, except to the extent that such EminiFX Claim is a Subordinated Claim or an EminiFX User Convenience Class Claim.

**“User Convenience Class Claim”** means an EminiFX Claim that is based on an alleged investment in the EminiFX System prior to the commencement of the CFTC Enforcement Action, where the Verified User Deposit Amount (not subtracting the Verified User Withdrawal Amount) is not greater than \$1,000, except to the extent that such EminiFX Claim is a Subordinated Claim.

**“User Convenience Class Distribution Percentage”** means, in respect of any distribution made by the Receiver to Holders of Allowed User Convenience Class Claims, a percentage determined by the Receiver in his sole discretion that applies to distributions to Class 3A User Claims, subject to any increase as set forth in Article III.A.4.

**“User Portal”** means the portal established pursuant to the Claims Procedures, for which all Users were given access to review all of the Transactions identified by the Receiver so that the Users could verify their listed Transactions, modify such Transactions and/or add additional Transactions or add an additional User on whose behalf a Transaction may have been made; and which may be updated from time to time with functionality for Users to submit their feedback related to this proposed Distribution Plan, their distribution payment information, and their objections to Disputed Transactions.

**“Verified User Deposit Amount”** means, for each User that does not have any Pre-Receivership Deposits or Pre-Receivership Withdrawals in dispute under the terms of the Claims Procedures, the sum of all Pre-Receivership Deposits made by or on behalf of that User (or otherwise properly attributable to such User as determined by the Receiver).

**“Verified User Withdrawal Amount”** means, for each User that does not have any Pre-Receivership Deposits or Pre-Receivership Withdrawals in dispute under the terms of the Claims Procedures, the sum of all Pre-Receivership Withdrawals made to or for the benefit of that User (or otherwise properly attributable to such User as determined by the Receiver).

**B. Rules of Interpretation**

For purposes herein: (1) in the appropriate context, each term, whether stated in the singular or the plural, shall include both the singular and the plural, and pronouns stated in the masculine, feminine, or neuter gender shall include the masculine, feminine, and the neuter gender; (2) unless otherwise specified, all references herein to “Articles” are references to Articles of this Distribution Plan; (3) unless otherwise stated, the words “herein,” “hereof,” and “hereto” refer to this Distribution Plan in its entirety rather than to a particular portion of this Distribution Plan; (4) captions and headings to Articles are inserted for convenience of reference only and are not intended to be a part of or to affect the interpretation hereof; (5) the words “include” and “including” and variations thereof, shall not be deemed to be terms of limitation, and shall be deemed to be followed by the words “without limitation;” (6) any effectuating provisions may be interpreted by the Receiver in his sole discretion in a manner consistent with the overall purpose and intent of this Distribution Plan all without further notice to or action, order, or approval of this Court or any other Person, without waiver of the rights of any Person; and (7) any docket number

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references in this Distribution Plan shall refer to the docket number of any document filed with this Court in the CFTC Enforcement Action.

To the extent that this Distribution Plan is translated into any other language by the Receiver, the English language version shall control, and such translation of the Distribution Plan shall have no legal effect and be used for convenience only.

**C. Governing Law**

Unless a rule of law or procedure is supplied by federal law or unless otherwise specifically stated herein, the laws of the State of New York without giving effect to the principles of conflict of laws, shall govern the rights, obligations, construction, and implementation of this Distribution Plan.

**D. Reference to Monetary Figures**

All references in this Distribution Plan to monetary figures shall refer to currency of the United States of America, unless otherwise expressly provided herein.

**ARTICLE II.  
CLAIMS PROCESS**

**A. Claims Procedures**

The Receivership Assets consist almost exclusively of Cash (proceeds of previously liquidated assets, including Bitcoin) and certain potential Causes of Action. As of June 30, 2024, the Cash included in the Receivership Assets totaled approximately \$153 million.

One of the primary responsibilities of the Receiver is to determine how to allocate the Cash of the Receivership to Holders of Allowed EminiFX Claims. Critical to that is ascertaining Verified User Deposit Amount and Verified User Withdrawal Amount for each investor (*i.e.*, User). Following his appointment, using the bank and cryptocurrency exchange records recovered, and EminiFX internal records (which were unreliable and incomplete), the Receiver and his team were able to match up the majority of the over 100,000 deposit and withdrawal transactions to EminiFX Users. This left many thousands of Transactions unmatched. Accordingly, the Receiver initiated procedures to verify deposits and withdrawals and on August 29, 2023, this Court entered an Order approving the Claims Procedures. The Claims Procedures provided that, among other things, Users could access a User Portal established by the Receiver to allow them to verify or dispute the Transactions (contributions into and withdrawals from EminiFX) that the Receiver identified as belonging to the User, and also add Transactions or attribute deposits to other Users, with any such additions and modifications subject to review and either verification or dispute by the Receiver. The time periods during which Users or other claimants could take the foregoing actions under the Claims Procedures have now expired.

There was substantial response to the User Portal, with thousands of Users interacting with the User Portal and either verifying the Receiver's Transactions or disputing, including adding, thousands of Transactions. Given this tremendous response, the Receiver has spent significant

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time analyzing the responses of every User that did not simply verify all of the Receiver's Transactions. That analysis is ongoing. Accordingly, the total amounts of investments into, and withdrawals from, EminiFX used for purposes of distributions under this Distribution Plan may vary from the estimates stated in the EminiFX Financial Condition Report.<sup>3</sup>

The Claims Procedures also established deadlines for governmental entities and other Non-Users to file proofs of claim (120 days and 60 days after entry of the order, respectively).<sup>4</sup>

**B. User Transaction Review Process**

In respect of User Claims, the Receiver and his professionals are in the process of reviewing the disputed Transactions (anything other than those that were verified). Where the Receiver agrees with a User's modification or addition, the Receiver will verify such Transaction. Where the Receiver cannot verify the modification or addition, the Receiver will mark it as disputed and the User will have an opportunity to respond or provide additional information once the Receiver's determinations are communicated to the Users. The Receiver expects to verify and accept thousands of modifications and additions, valued in the tens of millions of dollars, the vast majority of which relate to deposits by Users.

The Receiver expects that the initial review of all Users' disputed Transactions will be completed in or around October 2024, at which time the Receiver will file a Schedule of Disputed Transactions (as defined in the Claims Procedures) with respect to remaining disputes regarding Users' Transactions, pursuant to the terms of the Claims Procedures. Affected Users will have 45 days thereafter in which to object using the User Portal and the Receiver will continue to seek to reach a consensus with those Users who claimed to have deposited or withdrew actual Funds from EminiFX. However, the Receiver will categorically deny any Users seeking to claim as valid deposits returns on investment ("**ROI**"), bonuses, or internal transfers, as many have on the User Portal. Further, although the Receiver will continue to provide limited mechanisms for Users to resolve inter-user disputes where appropriate and consistent with the Claims Procedures and this Distribution Plan, the Receiver as a general rule will not resolve such disputes, and the Claims Procedures expressly reserve the rights of Users to assert claims against third parties (including other Users).

Thereafter, for all disputes that remain, the Receiver will file with the Court a summary of the Users' objections to the Schedule of Disputed Transactions and a statement in support of the Receiver's determination with respect thereto and may seek one or more orders of the Court resolving any disputes.

The Receiver anticipates that the foregoing process for resolving disputed investor Transactions may take several months. However, the vast majority of Users verified their Claims and have no disputes. The Receiver anticipates that initial distributions may be made to Users

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<sup>3</sup> The Financial Condition Report explained that, based on the information obtained from analyzing EminiFX's bank statements and incomplete internal records and during the eight-month period EminiFX was operational, investments (in either US Dollars or Bitcoin) into EminiFX were estimated at \$262.5 million. Withdrawals by investors from EminiFX during the same period were estimated at approximately \$34.0 million in the Financial Condition Report.

<sup>4</sup> The Internal Revenue Service is not subject to these deadlines.

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with verified Transactions (that are not insiders or otherwise subject to heightened scrutiny) prior to the full and final conclusion of the Transaction review process pursuant to this Distribution Plan. As a User's Transactions are verified and no disputes remain, such Users will be entitled to catch up distributions.

**C. Proof of Claim Review Process (Non-User Claims)**

Additionally, the Receiver reviewed the proofs of claim of Non-Users and, as of the filing of this Plan, reached agreements with all such claimants but one.<sup>5</sup> Per the agreements reached with the settling claimants, all have been paid and their claims extinguished. No further action is required by either party and no distributions will be made under this Plan to such settled claimants. Certain Users filed proofs of claim, presumably out of an abundance of caution. Per the Claims Procedures, all proofs of claim submitted by Users on account of their investments in the EminiFX System are automatically disallowed and the User was advised that such User was required to interact with the User Portal to verify and/or dispute any of their EminiFX Transactions.

**ARTICLE III.  
CLASSIFICATION AND TREATMENT OF CLAIMS**

**A. Classification of Claims**

The investors or other claimants that are eligible to receive distributions under this Distribution Plan are classified as follow:

- Class 1: Administrative Claims
- Class 2: Tax Claims
- Class 3: User Claims
- Class 3A: User Convenience Class Claims
- Class 4: Other Claims
- Class 5: Subordinated Claims
- Class 6: Equity Interests

**B. Treatment of Claims**

Distributions on Allowed EminiFX Claims are governed by, and subject to the terms of this Distribution Plan and shall be in full and complete satisfaction, settlement, and release of all such EminiFX Claims. Allowed EminiFX Claims in the following classes are payable with the following priority and on the following terms from the Receivership Assets. No Holder of an Allowed EminiFX Claim shall be entitled to recovery under this Distribution Plan in excess of the full amount of such Holder's Allowed EminiFX Claim (nor shall such Holder be entitled to any interest on such Claim):

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<sup>5</sup> On August 2, 2024, the Receiver filed the Non-User Claims Analysis Report, which initiated the formal process to resolve the remaining dispute with the one non-settling claimant.



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**1. Class 1 – Administrative Claims**

Each Holder of an Allowed Administrative Claim (Class 1) shall be entitled to receive the full amount of such Holder's Allowed Administrative Claim in Cash from time to time as and when due pursuant to any applicable orders of this Court, except to the extent that such Holder agrees to less favorable treatment. Unpaid or disputed Administrative Claims will be reserved for in their full amounts unless otherwise resolved in accordance with this Distribution Plan. EminiFX Professionals with Administrative Claims shall be paid in accordance with the Employment Order entered in this case on June 10, 2022, as amended from time to time [Dkts. 47, 187, 209 *et seq.*].

**2. Class 2 – Tax Claims**

Each Holder of an Allowed Tax Claim (Class 2) shall be entitled to receive the full amount of such Holder's Allowed Tax Claim in Cash from time to time as and when due pursuant to any applicable orders of this Court, except to the extent that such Holder agrees to less favorable treatment. At the time of any distribution, to the extent that the amount of the Tax Claims has not been determined or otherwise Allowed, the Receiver will establish a reserve—in an amount determined in his sole discretion after consultation with his advisors—to be a reasonable estimate of potential tax liabilities of EminiFX and the EminiFX QSF.

Consistent with the authority in Paragraph 31(m) of the Statutory Restraining Order [Dkt. 9], as incorporated into Paragraph 37 of the Consent Order [Dkt. 56], the Receiver shall file a tax return for the EminiFX QSF and pay any amount owed without further order of the Court, and shall include in the next regularly filed status report any amount paid. To the extent that the Internal Revenue Service (or state analogue) files a Tax Claim with respect to any pre-receivership tax liability of EminiFX, the Receiver shall accept such filing without regard to the Bar Date and shall have the authority to accept or negotiate the amount or priority of any such Tax Claim. The Receiver shall thereafter file a supplemental report with the Court seeking approval for the allowance, priority, and payment of any such Tax Claim.

**3. Class 3 – User Claims**

Each Holder of an Allowed User Claim (Class 3) shall be entitled to receive one or more distributions in Cash, from time to time in the discretion of the Receiver, equal to (i) the Verified User Deposit Amount in respect of such Holder's Allowed User Claim multiplied by the then-applicable Rising Tide Percentage minus (ii) the Prior Distribution Amount in respect of such Holder's Allowed User Claim.

The Receiver expects to prepare and file with the Court, in advance of making such distribution to Class 3, a notice identifying the applicable Rising Tide Percentage and an anonymized schedule showing the Verified User Deposit Amount and Prior Distribution Amount for each Allowed User Claim. To the extent that the foregoing calculation results in a negative amount with respect to any given Allowed User Claim, the Holder of such Allowed User Claim shall not receive a distribution.

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**4. Class 3A – User Convenience Class Claims**

Each Holder of an Allowed User Convenience Class Claim (Class 3A) shall be entitled to receive a single distribution in Cash, at approximately the same time that the first interim distribution is made to Holders of Allowed User Claims (Class 3), equal to (i) the Verified User Deposit Amount in respect of such Allowed User Convenience Class Claim multiplied by the User Convenience Class Distribution Percentage minus (ii) the Prior Distribution Amount in respect of such Allowed User Convenience Class Claim. To the extent that the foregoing calculation results in a negative amount with respect to any given Allowed User Convenience Class Claim, the Holder of such Allowed User Convenience Class Claim shall not receive a distribution.

The Receiver expects to prepare and file with the Court, in advance of making such distribution to Class 3A, a notice identifying the applicable User Convenience Class Distribution Percentage and an anonymized schedule showing the Verified User Deposit Amount and Prior Distribution Amount for each Allowed User Convenience Class Claim.

Notwithstanding the foregoing, to the extent that the Receiver determines subsequently that the Convenience Class Distribution Percentage is inequitable as compared to the eventual final Rising Tide Percentage, the Receiver reserves the right in his sole discretion to revise the Convenience Class Distribution Percentage upward and make a further “top-up” distribution to Holders of Allowed User Convenience Class Claims based on the revised percentage (such that the total distributions by the Receiver under the Plan to each Holder of an Allowed User Convenience Class Claim would be made equal to the amount that would have been made if the Convenience Class Distribution Percentage had been the revised percentage originally).

**5. Class 4 – Other Claims**

Each Holder of an Allowed Other Claim (Class 4) shall be entitled to receive distributions in cash, at approximately the same time that distributions are made on account of Allowed User Claims (Class 3), equal to the amount of such Holder's Allowed Other Claim multiplied by the then-applicable Rising Tide Percentage being used for purposes of distributions on account of Allowed User Claims. As of the filing of the Non-User Claims Analysis Report on August 2, 2024, there was only one remaining Allowed Other Claim that had not been resolved and extinguished. The claimant asserted a claim in the amount of \$992,614 and later sought to amend the claim to an amount in excess of \$2 million. The Receiver determined that such claim should be disallowed in its entirety, subject to the claimant's right to object to the Receiver's determination and have the issue decided by the Court pursuant to the Claims Procedures.

**6. Class 5 – Subordinated Claims**

Each Holder of an Allowed Subordinated Claim (Class 5) shall not be entitled to any distributions unless and until each Allowed EminiFX Claim in Classes 1, 2, 3, 3A and 4 are satisfied in full in accordance with the Distribution Plan; thereafter any Holder of an Allowed Subordinated Claim shall be entitled to its *pro rata* share of any further distributions by the Receiver from the Receivership Assets, if any. Current estimates are that holders of Allowed Subordinated Claims will not receive a distribution.

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**7. Class 6 – Equity Interests**

Equity Interests shall not be entitled to any distributions under this Distribution Plan and will be extinguished and cancelled upon the dissolution of EminiFX in accordance with the terms of this Distribution Plan.

**ARTICLE IV.**

**CLAIMS ALLOWANCE, EFFECT OF LITIGATION ON CLAIMS ALLOWANCE**

**A. Claims Allowance Process**

All determinations of whether any EminiFX Claim is Allowed (which includes, in respect of any User Claim or User Convenience Class Claim, resolving any disputes regarding any Transaction and determining the Verified User Deposit Amount and the Verified User Withdrawal Amount) shall be done in accordance with the terms of the Claims Procedures, or otherwise pursuant to a Final Order of this Court, subject to the potential disallowance of EminiFX User Claims as described in Article IV.E below. Any resolution of a Disputed Claim, as set forth in Sections 4 and 5 the Claims Procedures, may include a determination of whether all or a portion of such Disputed Claim that is allowed shall be classified as a Subordinated Claim.

For the avoidance of doubt, the Receiver is currently reviewing Transactions for the purpose of determining Verified User Deposit Amounts and Verified User Withdrawal Amounts pursuant to the terms of the Claims Procedures. At the conclusion of such process, the Receiver will file a Schedule of Disputed Transactions (as defined in the Claims Procedures), and affected Holders of EminiFX Claims will have 45 days thereafter in which to object in writing, agree to the Receiver's recommendations, or reach a resolution with the Receiver.

Notwithstanding anything in the Claims Procedures to the contrary, and in addition to any authority thereunder or which may be otherwise granted to the Receiver, the Receiver shall have specific authority to reach a resolution with the Holder of any User Claim or User Convenience Class Claim to Allow such EminiFX Claim (which includes, in respect of any User Claim or User Convenience Class Claim, resolving any disputes regarding any Transactions and determining the Verified User Deposit Amount and the Verified User Withdrawal Amount), in his sole discretion, without the necessity of this Court's approval or any notice to any third party or the Court.

**B. Exclusion of ROI from Verified User Deposit Amounts**

As set forth in the EminiFX Financial Condition Report and the Claims Procedures Motion, the Receiver has concluded that the investment returns (called "ROI" in the EminiFX System) credited to investors were not based on the results of actual investment activity and should not be recognized as legitimate or actual liabilities of EminiFX. Thus, ROI purportedly earned by Users will not be considered for purposes of determining Verified User Deposit Amounts.

**C. Exclusion of Bonuses from Verified User Deposit Amounts**

The Receiver has also concluded that bonuses awarded to Users for signing up other Persons to become Users and invest in the EminiFX System were not based on any actual value

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provided to EminiFX, and further enabled the EminiFX scheme, and should not be recognized as legitimate or actual liabilities of EminiFX. Thus, bonuses purportedly earned by Users will not be considered for determining Verified User Deposit Amounts.

**D. Exclusion of Internal Transfers from Verified User Deposit Amounts**

The Receiver has also concluded that internal transfers between EminiFX Users within the EminiFX system shall not be recognized as liabilities of EminiFX and will not be recognized for purposes of determining Verified User Deposit Amounts. These internal transfers do not reflect new money contributed to EminiFX, but, rather a transfer of a part of one User's "personal volume" or account balance to the account of another User. EminiFX records reflect nearly 50,000 internal transfers with a nominal "value" of over \$77 million were made within the EminiFX System. Because a User's balance nearly always included substantial fictitious ROI and multilevel marketing bonuses, determining how much of a transfer consisted of actual Funds is a practical impossibility and could also result in a deduction of the Transferor's Pre-Receivership Deposits to avoid double counting the same Funds.<sup>6</sup> Thus, transfers between Users within the EminiFX System will not be considered for determining Verified User Deposit Amounts.

**E. No Allowance of Claims Subject to Disputes**

**1. Potential Consolidation of Investor Accounts**

The Receiver may determine that certain investor accounts, under the applicable facts and circumstances, should be deemed consolidated with one another for purposes of determining the Verified User Deposit Amount and the Verified User Withdrawal Amount in respect of certain User Claims or User Convenience Class Claims.<sup>7</sup> At any time, but no later than the Review Hold Expiration Date, the Receiver will notify the affected Holders of any User Claim or User Convenience Class Claim of any such determination in writing (which may be through the User Portal), and thereafter such affected User Claims or User Convenience Class Claims shall not be Allowed and the Holders of such affected User Claims or User Convenience Class Claims shall not be entitled to any distributions under this Distribution Plan unless and until the Receiver's determination is withdrawn in writing by the Receiver, resolved by written agreement of the Receiver, or resolved by a Final Order of this Court.

**2. Temporary Litigation-Related "Review Holds"**

The Receiver shall have the authority to place a temporary "review hold" with respect to any EminiFX Claim or the Holder thereof at any time up until the Review Hold Expiration Date, which shall prevent any EminiFX Claim identified in such temporary "review hold" and all

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<sup>6</sup> The Transaction review process gave EminiFX Users the ability to add a member to a deposit, which allowed users to in effect transfer deposits from themselves to other Users. However, the Receiver will generally not resolve disputes among Users where those Users do not agree.

<sup>7</sup> An example of a situation in which the Receiver may determine to consolidate two accounts is where the principal owner of the account is the same (e.g., a business account and a personal account or if the User opened up two separate accounts) and one of the relevant investor accounts is held by a Net Winner. The foregoing is solely an example for illustrative purposes. The Receiver may determine to designate accounts for consolidation in other situations as well.

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EminiFX Claims of the Holder identified in such temporary “review hold” from being Allowed. The potential bases for such a temporary “review hold” include, without limitation, the Receiver’s need for additional time to identify potential actions to subordinate EminiFX Claims, to assert affirmative claims for recovery, to further investigate the beneficial owner of an EminiFX Claim, or to recommend equitable subordination or consolidation to the Court. The Receiver shall use the User Portal to notify the relevant Holder that the User’s EminiFX Claim has been placed under a “review hold” while the Receiver conducts his review. The Receiver may remove any such temporary “review hold” for any reason, in his sole discretion. All such temporary “review holds” shall automatically expire on the Review Hold Expiration Date if not removed before such time, *provided that* no Litigation Demand has been made as described in the following section, or no request for equitable subordination or consolidation has been made under this Article IV.E.

The Review Hold Expiration Date may be extended only with the approval of the Court, which may be requested by the Receiver via letter application instead of by motion on regular notice. The current Review Hold Expiration Date shall be posted on the Receivership website.

**3. Litigation Demands**

The Receiver shall have the authority to assert a Litigation Demand with respect to any EminiFX Claim (regardless of whether a temporary “review hold” applied to such EminiFX Claim at any time) or the Holder thereof. Such assertion of a Litigation Demand shall also prevent any EminiFX Claim identified in such Litigation Demand and all EminiFX Claims of the Holder identified in such Litigation Demand from being Allowed at any time after notice of the Litigation Demand is provided to the relevant Holder, until such time that the Litigation Demand is withdrawn in writing by the Receiver, resolved by written agreement of the Receiver, or resolved by a Final Order of this Court.

To the extent that distributions are made under this Distribution Plan on account of an Allowed EminiFX Claim that subsequently becomes the subject of a Litigation Demand and thus not Allowed, the Receiver may seek appropriate relief from the Court, including, but not limited to, disgorgement of previous distributions.

**4. Potential Subordination of Investor Claims**

The Receiver may determine that certain User Claims or User Convenience Class Claims, under the applicable facts and circumstances, should be classified as Subordinated Claims. For any such potential Subordinated Claims, the Receiver may, prior to the Review Hold Expiration Date, file one or more schedules of Subordinated Claims with the Court from time to time, and shall serve any affected Holder. Any affected Holder shall have 45 days to submit an objection to the Receiver, in a manner specified by the Receiver upon service of the schedule of Subordinated Claims. Failure to timely object shall result in such subordination classification becoming final. For any subordination classification not resolved consensually with the affected Holder, the Receiver shall submit such classification to the Court for summary disposition in a manner consistent with Section 5 of the Claims Procedures.

For the avoidance of doubt, any User Claim or User Convenience Class Claim (a) for which a request for subordination has not been made under this Section prior to the Review Hold

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Expiration Date, or (b) that has not been included in a Litigation Demand as set forth in Article IV.E shall not be a Subordinated Claim.

**ARTICLE V.  
DISTRIBUTIONS PROCESS**

**A. Summary of Rising Tide Methodology**

The Receiver will make distributions to Holders of Allowed User Claims utilizing a method referred to as the “rising tide” method. The “rising tide” method, which is a method widely recognized by courts as appropriate in the context of Ponzi schemes, provides that distributions are made such that each eligible investor would receive a Cash distribution from the Receiver that, when added to the prior distributions received by that investor, total an amount that equals a certain percentage (known as the “rising tide” percentage) of that investor’s gross investment in EminiFX (ignoring any purported profits, interest, bonuses, transfers or other amounts shown in the EminiFX system other than actual money contributed to EminiFX by the investor). For example, if the Rising Tide Percentage was fixed at 50%, and an investor previously received distributions equal to 28% of his or her Verified User Deposit Amount, then such investor would receive a distribution from the Receiver equal to 22% of that investor’s Verified User Deposit Amount. Investors that previously received distributions (before or after the Receivership Date) equal to or greater than the then-applicable Rising Tide Percentage multiplied by the User’s Verified User Deposit Amount, would not receive any distribution from the Receiver at that time. Distributions under the rising tide method can be calculated as follows:

$$\text{Distribution} = (\text{Verified User Deposit Amount} \text{ multiplied by Rising Tide } \%) \\ \text{minus Verified User Withdrawal Amount} \text{ minus Distributions Made by Receiver to Date.}$$

The following table is an example how the rising tide methodology would be applied to four sample users, all of whom have \$10,000 in Verified User Deposit Amounts, but different Verified User Withdrawal Amounts. In this example, the rising tide percentage starts at 30% in the initial distribution and is subsequently increased to 50% in a subsequent distribution. **This is only an example and not intended to indicate the Rising Tide Percentages that will be set by the Receiver at any point in time.**

| Sample User   | Distribution 1<br>30% Rising Tide | Distribution 2<br>50% Rising Tide | Sum of Receiver<br>Distributions | Sum of Withdrawals<br>and Distributions |
|---|-----------------------------------|-----------------------------------|----------------------------------|---|
| <b>User A</b><br>Deposits \$10,000<br>Withdrawals \$0     | \$3,000                           | \$2,000                           | \$5,000                          | \$5,000                                 |
| <b>User B</b><br>Deposits \$10,000<br>Withdrawals \$2,000 | \$1,000                           | \$2,000                           | \$3,000                          | \$5,000                                 |
| <b>User C</b><br>Deposits \$10,000<br>Withdrawals \$4,000 | \$0                               | \$1,000                           | \$1,000                          | \$5,000                                 |
| <b>User D</b><br>Deposits \$10,000<br>Withdrawals \$8,000 | \$0                               | \$0                               | \$0                              | \$8,000                                 |

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The Receiver will set the initial Rising Tide Percentage in his sole discretion promptly after the later of (i) the conclusion of the investors' period to respond to the Receiver's initial Schedule of Disputed Transactions, and (ii) entry of the Distribution Plan Order. When calculating such percentage, the Receiver expects to account for all available information—including the amounts of disputed Transactions and estimates of remaining Class 1 and Class 2 Claims—and to reserve using these reasonable estimates given that the Receiver expects to increase the Rising Tide Percentage from time to time. The Receiver will post such initial Rising Tide Percentage on the Receivership website and shall file with the Court a notice identifying the applicable Rising Tide Percentage. The Verified User Deposit Amount and the Verified User Withdrawal Amount for Holders with Allowed User Claims shall also be filed with the Court, posted on the Receivership website, and posted on that investor's User Portal.

The Receiver will set the User Convenience Class Distribution Percentage at the same time he sets the initial Rising Tide Percentage, and will follow a similar procedure as set forth above, posting the User Convenience Class Distribution Percentage on the website, filing schedules with the Court, and updating the User Portal with the Verified User Deposit Amount and Verified User Withdrawal Amount for Holders with Allowed User Convenience Class Claims.

For subsequent distributions, when the Receiver determines it is prudent to increase the Rising Tide Percentage—using reasonable reserve estimates and seeking to minimize the costs of distributions—the Receiver will follow a similar procedure, filing a notice of revised Rising Tide Percentage and posting the revised Rising Tide Percentage on the Receiver's website. The Receiver will periodically file and publish revised schedules of Allowed User Claims and Allowed User Convenience Class Claims as such Claims become Allowed.

**B. Timing and Approvals of Distributions**

At any time after the Effective Date, the Receiver shall be authorized to make distributions of Receivership Assets pursuant to and consistent with this Distribution Plan from time to time as determined by the Receiver in his sole discretion without further specific approval of the Court, subject to applicable law and any otherwise applicable orders of the Court.

**C. Form of Distributions**

Payments made pursuant to the Distribution Plan shall be made by the Receiver in Cash by means of check, ACH, Paypal, Venmo, Zelle, or other electronic payment method that the Receiver deems reasonable or necessary under the circumstances.

For any investors that do not provide to the Receiver via the User Portal updated contact and payment information, the Receiver may send checks to the last known addresses located in the United States of such investors, provided that the Receiver does not have a good faith basis to believe that the investor or the investor's designee is no longer located at such address. The Receiver may in his sole discretion allow an investor to designate a third party to receive such investor's distribution, for good cause shown to the Receiver.

The Receiver shall not be required to mail any checks or other form of physical payment to investors located outside the United States. To the extent that none of the payment methods

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authorized by the Receiver are practicable for an investor located outside the United States, the Receiver may in his sole discretion decide to use a different payment method for such investor, but the Receiver is not required to make any such exception.

**D. Distribution Reserves**

Prior to making any distributions to Holders of Allowed EminiFX Claims, the Receiver shall establish reserves as reasonably necessary to ensure that the Receivership Assets remaining after such distributions will be sufficient to (i) fund future expected professional, administrative, operational, and other expenses associated with fully administering the Receivership Assets as well as all potential Allowed Administrative Claims (Class 1) and all Allowed Tax Claim (Class 2) and (ii) otherwise ensure compliance by the Receiver with this Distribution Plan including the potential requirement to make distributions to Holders of EminiFX Claims that are at the time not yet Allowed Claims, but that might become entitled to distributions pursuant to this Distribution Plan if such EminiFX Claims were Allowed.

**E. No De Minimis Distributions Required**

The Receiver shall not be required to make a distribution to the holder of an Allowed EminiFX Claim if the amount of any one distribution on such Allowed EminiFX Claim is less than \$50.00.

**F. Compliance with Applicable Law**

Notwithstanding anything else contained herein, the Receiver shall be authorized to take any action he deems reasonably necessary to ensure compliance with applicable law in connection with making any distribution otherwise required hereunder. By way of example, and without limitation, the Receiver shall be permitted to (i) withhold distributions otherwise payable to Holders of Allowed EminiFX Claims until receipt of information necessary requested from such Holders in respect of applicable tax withholding and reporting requirements,<sup>8</sup> (ii) withhold distributions otherwise payable to Holders of Allowed EminiFX Claims based on restrictions under applicable law or regulations including as promulgated by Office of Foreign Assets Control of the US Department of the Treasury, provided that the Receiver is given notice of such lien pursuant to the procedures set forth below, and (iii) establish any other mechanisms he believes are reasonable and appropriate consistent with the foregoing.

**G. Distributions to Third Parties**

The Receiver shall be permitted to withhold or pay distributions to third parties that were otherwise payable to Holders of Allowed EminiFX Claims as necessary to honor or satisfy applicable wage garnishments, alimony, child support, and other spousal awards, liens, and encumbrances; provided that the Receiver is given notice of such lien pursuant to the procedures

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<sup>8</sup> However, the Receiver does not currently contemplate requiring Holders of Allowed User Claims or Allowed User Convenience Class Claims to provide tax identification numbers or other tax reporting information as a condition to making distributions to such Holders, because such Holders are expected to receive only a partial refund of their total deposits and not any profits or gains.



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set forth below. Any amounts so withheld or paid to third parties by the Receiver pursuant to this foregoing authority shall be deemed to have been distributed to and received by the applicable Holder for all purposes of this Distribution Plan.

The Receiver may publish a form and related procedures by which purported third-party holders of liens or other rights may assert such liens or rights. Any such procedures shall require valid evidence of purported third-party holders' liens or other rights and may require such purported third-party holders to pay certain fees or other charges associated with filing and administering the third-party liens in any amounts that the Receiver deems reasonable in his sole discretion. The Receiver shall be authorized to determine the validity of any such evidence in his discretion, subject to the right of any party to seek a ruling from this Court.

The Receiver also may publish a form and related procedures for beneficiaries of estates of Holders of User Claims that are deceased, which shall require valid evidence of death and a right to receive distributions on behalf of the deceased Holder's estate. The Receiver shall be authorized to determine the validity of any such evidence in his discretion, subject to the right of any party to seek a ruling from this Court.

The Receiver may otherwise in his discretion make a distribution otherwise due to a Holder to the designee of a Holder, at the request of such Holder, provided that the Receiver has a good faith basis to believe that such request was made in good faith and not to evade compliance with this section or applicable law.

**H. Disposition of Unclaimed Property**

In the event that (a) any distribution to any Holder of an Allowed EminiFX Claim is returned as undeliverable or (b) the Holder of an Allowed EminiFX Claim does not respond to a request by the Receiver for information necessary to facilitate a particular distribution, no further distribution to such Holder shall be made unless and until the Receiver shall have determined the then-current address of such Holder or received the necessary information to facilitate a particular distribution, at which time such distribution and all catch-up distributions shall be made to such Holder without interest, dividends, or other accruals of any kind; provided that such distributions shall be deemed unclaimed property on the date that the Receiver determines in his sole discretion that all reasonable attempts to deliver such distributions have been exhausted, but in all events, prior to the final distribution of Receivership Assets. After such date, such Holder shall be deemed to have forfeited their right to any and all distributions from the Receiver, and all unclaimed property or interests in property shall be deemed Receivership Assets available for distribution to other Holders of Allowed EminiFX Claims (notwithstanding any applicable federal, provincial, or state escheat, abandoned, or unclaimed property laws to the contrary).

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**ARTICLE VI.  
RECEIVER CAUSES OF ACTION**

**A. Preservation of Receiver Causes of Action**

All Causes of Action included within the Receivership Assets are expressly preserved by the Receiver, and nothing in this Distribution Plan shall be deemed a waiver or abandonment of any such Causes of Action.

**B. Potential Claims and Causes of Action**

The Receiver is in the process of evaluating a number of potential Causes of Action against third parties, which may seek affirmative recovery and/or disallowance or subordination of any investor claims such third party may have against EminiFX. Whether the Receiver asserts any Causes of Action, either through litigation or demand letters, and the resolution of such Causes of Action, could affect the number and dollar amount of claims that are eventually Allowed and deemed eligible for distributions under this Distribution Plan.

While the Receiver does not contemplate significant litigation against investors in EminiFX, certain investors may be the target of litigation to the extent that, among other things, they are deemed insiders, may have aided and abetted the fraudulent scheme, or may have received fraudulent transfers. Before commencing any litigation, the Receiver will first seek to resolve any claims without the need for litigation.

This Distribution Plan provides that EminiFX Claims identified by the Receiver as subject to litigation-related disputes will not be Allowed (and thus not eligible for distributions) as described in Article IV.E. Any litigation will not hinder the Receiver's ability to make initial distributions to investors whose claims have been verified and are not subject to disputes or potential litigation.

To the extent that any monies are recovered by the Receiver through litigation, settlement or otherwise after the filing of this Distribution Plan, or third parties seek to make distributions of litigation recoveries through the Receivership, such amounts will be included in the assets distributed to Holders in accordance with the terms of this Distribution Plan, unless the Receiver moves the Court for an amendment to this Distribution Plan concerning distribution of such amounts.

**C. Receiver's Discretion Regarding Causes of Action**

The Receiver shall be and is authorized to initiate, file, prosecute, enforce, abandon, settle, compromise, release, withdraw, or litigate to judgment any EminiFX Causes of Action, and to decline to do any of the foregoing, without the consent or approval of any third party or further notice to or action, order, or approval of this Court, subject to the Court's Supplemental Procedures Order [Dkt. 91] and, with respect to Net Winners, Article VI.D.

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**D. Treatment of Net Winners**

Net Winners will not receive distributions under this Distribution Plan regardless of whether the Receiver commences any action to recover sums from such Net Winner. This is so simply because the “rising tide” method of calculating distributions is used, and Net Winners by definition have already received more than full recovery of the amounts that they are entitled to on their total investment.

The Receiver contemplates making settlement offers to Net Winners, offering a release from litigation by the Receiver in exchange for return of a portion of amounts received by Net Winners. Absent any settlement, Net Winners may be subject to potential affirmative Causes of Action brought by the Receiver.

**ARTICLE VII.  
TAX ISSUES**

**A. Class 2 Pre-Receivership Tax Claims**

The Receiver will accept the filing of any EminiFX Claim by the United States Internal Revenue Service (the “IRS”) or the New York Department of Taxation and Finance for unpaid taxes by EminiFX, Inc. pre-receivership, without regard to the deadlines set in the Claims Procedures, which are inapplicable to Claims of the IRS. Any such claim by the IRS shall receive any priority required under law, including but not limited to the Federal Priority Statute, 31 U.S.C. § 3713, provided that the Receiver and the IRS may negotiate the amount and priority of any such EminiFX Claim. The Receiver may make distributions on account of Class 3 and Class 3A claims, notwithstanding the Federal Priority Statute, so long as the Receiver reserves appropriately.

**B. Class 2 Post-Receivership Qualified Settlement Fund Tax Claims**

The EminiFX QSF comprises the Receivership estate, and is a separate taxable entity. The Receiver has and will continue to file, on an annual basis, tax returns for the EminiFX QSF. Any taxes owed thereon shall be treated as Class 2 claims entitled to payment from the Receivership Assets upon the filing of such tax returns, without further order from the Court.

**C. Investor Tax Matters**

EminiFX investors are expected to ultimately receive distribution(s) less than each investor’s net contribution into the EminiFX System. Consequently, EminiFX investors are advised that the Receiver does not expect to file tax reporting documents on distributions to Class 3 Claims or Class 3A Claims, nor does the Receiver expect to withhold any taxes on account of such distributions. All Holders of Class 3 Claims and Class 3A Claims are responsible for determining the tax treatment of any distributions received thereon. The Receiver cannot give any tax advice to Holders of EminiFX Claims, who are advised to consult their own tax advisors.

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**ARTICLE VIII.  
MISCELLANEOUS PROVISIONS**

**A. Jurisdiction of Court**

This Court shall have sole and exclusive jurisdiction to interpret and enforce this Distribution Plan and to adjudicate all matters arising out of, and related to the Receivership and the Distribution Plan, including jurisdiction, power and authority to:

1. Consider any amendments or modifications of the Distribution Plan requested by the Receiver.

2. Cure any defect or omission, or reconcile any inconsistency in the Distribution Plan, or any order of the Court.

3. Issue such orders in aid of execution of, or to enforce, the Distribution Plan as may be necessary and appropriate.

4. Hear and determine all litigation, Causes of Action and all controversies, suits and disputes that may arise in connection with the interpretation, implementation, or enforcement of this Distribution Plan and any settlements or compromises reflected herein.

5. Ensure that distributions to holders of Allowed EminiFX Claims are accomplished pursuant to the provisions of this Distribution Plan.

6. Hear and determine all objections or other disputes with respect to EminiFX Claims.

7. Protect the Receivership Assets from adverse claims or interference inconsistent with the Distribution Plan, including the issuance of injunctions or other such action as may be necessary or appropriate to restrain interference with the implementation or enforcement of the Distribution Plan.

8. Hear and determine all applications for compensation and reimbursement of expenses of professionals employed by the Receiver.

9. Hear and determine issues related to the Receiver's efforts to recover all Receivership Assets, wherever located.

10. Hear and determine all litigation, Causes of Action and all controversies, suits, and disputes that may arise in connection with any action sought to be taken against the Receiver or his professionals.

11. Enter a Final Order closing the CFTC Enforcement Action and discharging the Receiver.

12. Hear and determine all other issues or matters necessary to carry out the purpose of this Distribution Plan.

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**B. Effective Date of Distribution Plan**

This Distribution Plan shall become effective on the Effective Date. On or after the Effective Date, the Receiver may, in his discretion, commence making distributions to Holders of Allowed EminiFX Claims.

**C. Binding Effect of Distribution Plan**

On and after the Effective Date, the provisions of this Distribution Plan shall, and shall be deemed to, bind each Holder of an EminiFX Claim, including each of their respective successors, heirs, legal representatives, and assigns.

**D. Injunction**

Except as otherwise provided in this Distribution Plan or in any document, instrument, release, or other agreement entered into in connection with this Distribution Plan or approved by order of the Court, all Persons that have held, hold, or may hold EminiFX Claims are permanently enjoined from taking any of the following actions against the Receivership Assets:

1. commencing or continuing, in any manner or in any place, any action or other proceeding to enforce, attach, collect, or recover in any manner any judgment, award, decree, or order;
2. creating, perfecting, or enforcing any lien or encumbrance;
3. asserting a setoff or right of subrogation of any kind against any debt, liability, or obligation due to the Receiver in his capacity as such;
4. commencing or continuing, in any manner or in any place, any action that does not comply with or is inconsistent with the provisions of this Distribution Plan; provided, however, that nothing contained herein shall preclude such persons or entities from exercising their rights pursuant to and consistent with the terms of this Distribution Plan and the contracts, instruments, releases, indentures, and other agreements or documents delivered under or in connection with the Distribution Plan, or approved by order of the Court; and
5. taking any other action specifically enjoined in Paragraphs 55 and 56 of the Receivership Preliminary Injunction Order.

**E. Continued Force and Effect of Receivership Preliminary Injunction Order**

To the extent that it is not expressly superseded by, or clearly contrary to, the provisions of this Distribution Plan, the Receivership Preliminary Injunction Order shall remain in full force and effect through entry of an order closing the CFTC Enforcement Action, unless otherwise superseded by an Order of the Court.

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**F. Severability**

If any term or provision of this Distribution Plan is determined by the Court to be invalid, void or unenforceable, the Court will have the power to alter and interpret such term or provision to make it valid or enforceable to the maximum extent practicable, consistent with the original purpose of the term or provision held to be invalid, void or unenforceable, and such term or provision will then be applicable as altered or interpreted. Notwithstanding any such holding, alteration or interpretation, the remainder of the terms and provisions of this Distribution Plan will remain in full force and effect and will in no way be affected, impaired or invalidated by such holding, alteration, or interpretation.

**G. Dissolution of EminiFX**

As part of this Distribution Plan, at or near the conclusion of the Receiver's administration of the Receivership Assets, EminiFX will be dissolved. Such dissolution will include the filing of articles of dissolution if necessary, compliance with applicable state and local laws and procedures related to entity dissolution, and the filing of final tax returns.

**H. Reports to the Court and to Claimants**

The Receiver shall file a written report with this Court no less than annually regarding the status of efforts to implement this Distribution Plan. The Receiver shall post a copy of his written report, which may be part of the annual or quarterly status reports, on the Receiver's website in order to provide notice to claimants (<https://www.eminifxreceivership.com/>).

**I. Amendments to Distribution Plan**

The Receiver expressly reserves the rights to alter, amend, or modify this Distribution Plan, one or more times, after this Court's approval hereof, if such alteration, amendment or modification does not, in the Receiver's judgment, materially alter the Distribution Plan, and, to the extent necessary, seek this Court's approval to so alter, amend, or modify this Distribution Plan, or remedy any defect or omission, or reconcile any inconsistencies in this Distribution Plan, in such manner as may be necessary to carry out the purposes and intent of this Distribution Plan. The Receiver shall post any amendments to the Distribution Plan with a redline on the Receivership website, and shall inform the Court in his next regularly filed status report.

**J. Notice**

In general, the Receiver will provide notice to Users via the User Portal and via email, which are the preferred methods of communication. All notices, requests, and demands to or upon the Receiver to be effective—unless such communication be made through the User Portal **in which case no additional notice is required**—shall be in writing (including, without limitation) addressed as follows:

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David A. Castleman, Receiver  
EminiFX Distributions c/o Stretto  
410 Exchange, Suite 100  
Irvine, CA 92602  
EminiFX@stretto.com

**K. Application for Order Terminating the Receivership**

When the Receiver has fully administered the Receivership Assets, the Receiver may apply to this Court for an order terminating his appointment as Receiver, closing the CFTC Enforcement Action and ending the Receivership. Any such application shall be accompanied by (a) a final accounting identifying (i) all Receivership Assets, their source and value; and (ii) all liabilities, the nature and amount of such claims; and (b) a proposal for a final disposition of any remaining Receivership Assets.

**L. Preservation of Records**

The Receiver shall preserve all material records and documents relating to his appointment as Receiver until a date that is 1 year following entry of an order closing of the CFTC Enforcement Action.

Dated: New York, New York  
August 9, 2024

Respectfully Submitted,

By: /s/ David A. Castleman

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*Receiver*

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# EXHIBIT 2



## Proposed Distribution Plan

On August 9, 2024, the Receiver filed with the Court a proposed distribution plan (the “Proposed Plan”), which can be found [HERE](#). The Proposed Plan filed by the Receiver sets out, among other items:

- The framework for how EminiFX User Claims will be calculated
  - Only Verified or Resolved Transactions shall be used
  - ROI, Bonuses, and Internal Transfers will not be counted
- How distributions to EminiFX Users will be calculated using the “Rising Tide” method
- The Distribution method and eligibility issues

The Plan must be approved by the Court before it can go into effect. These are the important dates relevant to the Proposed Plan:

| DATE               | EVENT  |
|--------------------|--|
| August 9, 2024     | <ul style="list-style-type: none"> <li>• The Receiver filed the Proposed Plan, including a brief in support <a href="#">HERE</a>.</li> </ul>   |
| August 14, 2024    | <ul style="list-style-type: none"> <li>• The Receiver’s virtual Town Hall on the Proposed Distribution Plan</li> </ul>   |
| August 26, 2024    | <ul style="list-style-type: none"> <li>• User responses to the Proposed Plan must be submitted on the User Portal. <b>No person may file a response or a reply directly with the Court unless such person has filed a motion to intervene that has been granted by the Court.</b></li> </ul> |
| September 10, 2024 | <ul style="list-style-type: none"> <li>• User responses anonymized by the Receiver and filed with the Court.</li> <li>• CFTC/Alexandre file any responses with the Court.</li> </ul>   |
| September 27, 2024 | <ul style="list-style-type: none"> <li>• CFTC/Alexandre/Receiver file any reply briefs with the Court.</li> <li>• Proposed Plan will be fully briefed and submitted for decision by the Court.</li> </ul>  |

Distributions will not occur until the Proposed Plan is approved, and users are able to validate their payment information and resolve any remaining disputed transactions using the new User Portal 2.0, which the Receiver expects to release sometime in **October 2024**. All users will receive an email when User Portal 2.0 is launched.

Disclaimer: *The description of the Proposed Plan herein presumes that it will be approved as filed. Any Plan of Distribution that is approved may be materially different than the Proposed Plan, in which case this website will be updated. This page is provided merely as a resource to summarize the Proposed Plan, and is not intended to affect any provision as stated therein, which is the sole and complete statement of the Proposed Plan. To the extent there is any perceived discrepancy between this page and the Proposed Plan, the Proposed Plan filed with the Court controls.*

### **Town Hall**

[Include in Notice during the *August 9-14 time*:]

A town hall to discuss the Proposed Plan is scheduled to be held on the Receivership's YouTube channel on **August 14, 2024**.

[After *August 14 and onward*, delete the above sentence and put in the following:]

On August 14, 2024, the Receiver held a town hall on the Receivership's YouTube channel to discuss the Proposed Plan. A recording of that presentation can be found [HERE](#).

### **How and When to Provide Plan Feedback**

[*August 9-27*:]

All feedback on the Proposed Plan must be submitted via the User Portal on or before **August 26, 2024**. On your User Portal, there is a section near the top that is specially designated for providing feedback on the Proposed Plan. Users should focus their feedback on the Proposed Plan. Please do not include any personally identifying information, including **your EminiFX username or any other details relating to your transactions or your claim**, in any Plan feedback.

**EminiFX users who do not submit User Responses on the User Portal as instructed will have their responses disregarded and not included in the Receiver's subsequent submission to the Court.**

[*August 27-September 10*:]

All feedback was required to be submitted via the User Portal on or before August 26, 2024. The Receiver is currently processing that feedback, including redacting any personally identifying information, and will file it with the Court on September 10, 2024.

[*September 10 onward*:]

All feedback was required to be submitted via the User Portal on or before August 26, 2024. The Receiver compiled that feedback and filed it with the Court on September 10, 2024. A copy of that filing can be found [HERE](#).

[*all:*]

**Freedom to Provide Open Feedback:** EminiFX users' feedback on the Proposed Plan will be anonymized for submission to the Court, and no EminiFX user will be penalized for providing critical or negative feedback. Users are free to provide whatever feedback they have—although threatening or lewd language may be stricken from the submission to the Court. Support of the Proposed Plan will **not** result in favorable treatment for any EminiFX user. Opposition to the Proposed Plan will **not** result in unfavorable treatment for any EminiFX user.

## **EminiFX User Claims and User Portal 2.0**

The Proposed Plan will finalize how EminiFX user claims are calculated. EminiFX user claims are going to consist of the Verified and Accepted deposit transactions on your User Portal Transaction Log. Similarly, the Verified and Accepted withdrawal transactions on your User Portal Transaction Log will be used to calculate the amount of your distribution. The transactions represent actual funds into EminiFX, and actual funds out of EminiFX.

**Claims Do NOT Include ROI, Bonuses, and Internal Transfers:** EminiFX user claims will **not** consist of the ROI, will **not** consist of the various referral and other bonuses, and will **not** consist of internal transfers between users. The ROI, bonuses, and transfers do not represent the payment or transfer of actual funds into EminiFX, and thus will not be included in users' claims under the Proposed Plan.

The Receiver expects to launch User Portal 2.0 around October 2024. The website and log-in information will be the same, but the transactions will be updated to show the result of the Receiver's initial review. All users will be given the opportunity to provide payment information in User Portal 2.0, which the Receiver will use for any distributions that are made to that user. Users with transaction disputes will also be given opportunities to resolve those disputes (*see below for more detail*). Users will receive further instructions about User Portal 2.0 at a later date.

## **Distribution Calculation – Rising Tide**

The Proposed Plan seeks approval of a “rising tide” formula for calculating distributions. This means that your distribution is calculated based on your total pre-receivership deposits, and your total pre-receivership withdrawals are counted

against that calculation. Essentially, the Proposed Plan treats pre-receivership withdrawals the same as post-receivership distributions, because both are made from the same pool of commingled funds.

If the Proposed Plan is approved, the Receiver will set an initial rising tide percentage shortly after approval. From time to time, as the Receiver believes it is prudent to release reserves, the Receiver may increase that percentage. When the Receiver increases the percentage, users who already received distributions will generally be eligible for supplemental distributions.

$$\text{Distribution} = (\text{Total Deposits} \times \text{Rising Tide \%}) - (\text{Withdrawals} + \text{Prior Distributions})$$

This is an example of how rising tide works for four different users, all of whom have \$10,000 in deposits, but different withdrawal amounts. In this example, the rising tide percentage starts at 30% and is then increased to 50%. This example—**which is only an example and not an indication of the rising tide percentages that will be used in this case**—shows how the goal of rising tide is to try to make the total of withdrawals plus distributions as even as possible for users who deposited the same amount.

| Sample User   | Receiver Distribution 1<br>30% Rising Tide | Receiver Distribution 2<br>50% Rising Tide | Sum of Receiver Distributions | Sum of Withdrawals and Receiver Distributions |
|---|--|--|-------------------------------|---|
| <b>User A</b><br>Deposits \$10,000<br>Withdrawals \$0     | \$3,000                                    | \$2,000                                    | \$5,000                       | \$5,000                                       |
| <b>User B</b><br>Deposits \$10,000<br>Withdrawals \$2,000 | \$1,000                                    | \$2,000                                    | \$3,000                       | \$5,000                                       |
| <b>User C</b><br>Deposits \$10,000<br>Withdrawals \$4,000 | \$0  | \$1,000                                    | \$1,000                       | \$5,000                                       |
| <b>User D</b><br>Deposits \$10,000<br>Withdrawals \$8,000 | \$0  | \$0  | \$0                           | \$8,000                                       |

The other commonly used distribution calculation is net investment, which subtracts withdrawals from deposits, and calculates distributions pro rata using a percentage of that net amount. For users who did not withdraw, that percentage will be lower than a rising tide percentage for the same amount of total dollars distributed. For example, a user who deposited \$10,000 and withdrew \$0 would receive \$3,000 under a rising tide percentage of 30%, but would receive \$2,500 under a net investment percentage of 25%.

The Receiver believes that rising tide is fairer than the net investment method, because users who withdrew funds *pre-receivership* did so from the same commingled pot of funds that will be used to make distributions *post-receivership*. In addition, users who made withdrawals pre-receivership have had access to those funds since 2022.

### **Distribution Method and Timing**

Once the Proposed Plan is approved, and the 45-day period for users to respond to disputed transaction has passed, the Receiver will shortly thereafter set an Initial Rising Tide Percentage. Once that happens, the Receiver and his team will begin processing distributions to eligible users who have provided valid payment information on the User Portal 2.0.

A user will be eligible for a distribution under the Proposed Plan if the following conditions are met:

- The Court has approved the Distribution Plan
- The User's account has no disputed transactions remaining
- The User has provided valid payment information
- The Receiver has set a Rising Tide Percentage
- The User's verified withdrawals (if any) divided by verified deposits are below the Rising Tide Percentage
- The User's account is not subject to a further review hold (*this will not affect most users*)

The Receiver will provide options for electronic payments via services such as Paypal, Venmo, Zelle, or ACH, or for check payments to be sent via mail to a U.S. address. Overseas users who cannot receive payment in any of these ways will be able to contact the Receiver for additional assistance. **Once Portal 2.0 is released, the Receiver encourages all users to provide their payment information as soon as they can.**

If the above conditions are met, the Receiver expects to commence the first distribution by the end of 2024 and into 2025. The Receiver expects to make more than one distribution, and there is a substantial likelihood that the Initial Rising Tide Percentage will be increased at some point in the future. However, the timing or amount of future distributions is unknown at this time.

## **Disputed Transactions and Objections**

The Receiver and his team are continuing to review the thousands of submissions on the User Portal in preparation to launch Portal 2.0. We are targeting to launch Portal 2.0 in October 2024.

These are the most common categories of disputed transactions that users whose transactions have not been verified can expect to see:

- **Seeking ROI/Bonuses:** A user is seeking to add ROI or a multilevel marketing bonus. These are disallowed transactions under the Proposed Plan. A user will be given the opportunity to provide evidence that the user is seeking an actual deposit.
- **Insufficient Documentation:** The Receiver does not have enough documentation to support adding the disputed transaction to the log. *Users will have a chance to provide additional documentation or explanation using User Portal 2.0 the change or addition of a contribution.*
- **Duplicate Transaction or Different Owner:** A user is attempting to claim a transaction that is already on their transaction log (duplicate transaction) or was assigned to another user and is on that user's transaction log (different owner).
- **Inter-User Dispute:** A user sent money to another user outside of EminiFX and there is no evidence that the money was deposited into the EminiFX system. This situation may happen when a user who deposited on behalf of another user did not reassign a verified deposit.
- **Transfers Not Recognized:** A user received transferred funds within the EminiFX system from another user, rather than any funds moving into the EminiFX system.

Users will be given the option to accept some or all of the Receiver's determinations in the User Portal 2.0, without challenging or objecting to the dispute. In many cases, when a user accepts all of the Receiver's determinations, that user's account will become eligible for distribution—unless there are other issues, which the Receiver believes will impact only a limited number of users.

## **Other Potential Issues with EminiFX User Claims**

**Liens on Claims:** There may be some cases in which a third party is able to place a legal lien on a claim. The Receiver will post a form on the website for anyone placing a lien to submit, along with any necessary documentation. There will likely be a processing fee to submit a lien, as well as a charge on any distribution itself. Affected claimants will be given notice of any such lien and an opportunity to respond.

**Deceased Claimants:** There will unfortunately be some cases in which claimants pass away at any point in the claims and distribution process. The Receiver will post a form on the website for the deceased's representatives to submit to transfer the claim to the deceased's estate, along with any necessary documentation. The Receiver and his team will work with affected representatives on any documentation or other issues to the extent possible.

**Review Holds:** There may be some limited instances in which an account is held for further review, typically because the account is either that of an EminiFX insider, or the holder of the account also has a net winner account. The Receiver may request consolidation, subordination, or other type of litigation-related offset. All such review holds will expire on June 30, 2025, unless the Receiver has made a demand or initiated a process with the Court. In general, the Receiver expects to reach out to any affected user to attempt to resolve the hold, if possible.

**OFAC/Compliance:** The Receiver is legally obligated to comply with all applicable laws when transferring money, including regulations issued by the Office of Foreign Assets Control (OFAC). The Receiver and his team will work with any impacted claimants to the extent possible.

## **Frequently Asked Questions**

**Q. When am I getting a distribution?**

A. If your claim does not have any disputed transactions, and you provide valid payment information, our goal is to commence initial distributions at the end of 2024 and into 2025. However, the Proposed Plan must be approved first, and under the Proposed Plan any pre-receivership withdrawals will be subtracted from the distribution amount. Once we launch Portal 2.0 (target date: October 2024), you will be able to input your payment information, and we will use Portal 2.0 to announce distribution percentages and amounts.

*Note:* A very small number of users may have their claims held for further review. ***This is uncommon.*** For those users, the Receiver and his team will work with affected users to resolve issues arising from the hold. That process will take time, but all review holds will expire automatically on June 30, 2025 if the Receiver has not sent a demand or filed a motion with the Court.

**Q. What do I need to do to get a distribution?**

A. If you have no disputed transactions, all you need to do is provide us with valid payment information. You will have the ability to do that when we launch Portal 2.0 (target date: October 2024), and the Receiver encourages you to choose an electronic payment option for faster payment. If you have disputed transactions, you will be able to work with the Receiver's team to resolve those disputes, and you will also have an option to choose to accept the Receiver's recommendations. If your claim is held for further review—which is highly unlikely for the vast majority of users—the review hold will need to be resolved before a distribution can be made.

**Q. How much will the rising tide percentage be?**

A. The Receiver will set the **initial** rising tide percentage only if the Proposed Plan is approved, and users have had a chance to provide payment information and validate their transactions on Portal 2.0. The Receiver expects this to be the first of multiple distributions. The Receiver cannot at this time state what the initial rising tide percentage will be, but he will file a notice of the set percentage prior to commencing distributions. The Receiver expects to periodically increase the rising tide percentage as issues in the receivership are resolved and it is safe to do so. When that happens, the Receiver will make supplemental distributions to eligible users.

**Q. Why aren't you just subtracting withdrawals from deposits and doing a percentage of that?**

A. The Receiver does not believe that method of distribution (commonly called "net investment") is appropriate for EminiFX. Because the Receiver maintains that EminiFX operated as a Ponzi-like scheme, withdrawals were paid from a pool of all users' funds. Because of that, using the "net investment" method of distribution, which would result in some users receiving more from EminiFX than other users, would be unfair to investors who did not withdraw, but whose deposits were used to fund other users' withdrawals.

**Q. Why aren't you counting ROI and Bonuses?**



A. The Receiver has undertaken a detailed analysis of ROI and bonuses and found that they were fictitious. They were not connected to any investment returns – in fact, EminiFX lost money almost every week. (Click [HERE](#) for the weekly EminiFX performance figures.) Because ROI was not real, and only paid out pre-receivership funds using other users' deposits, the Receiver does not believe it is appropriate to use ROI as the basis for any user's claim.

**Q. I received a transfer from another user. Why doesn't that count toward my claim?**

A. When a user received a transfer from another user, that is not money coming into the EminiFX system. The user who deposited the original funds should have received a credit for that deposit, and we cannot double count it by also giving credit to the user who received a transfer. And, if there was any ROI or bonuses included in that transfer, those were fictitious profits and not real. Therefore, we cannot count transfers toward a user's claim. However, our Claims Procedures state that nothing in this process is intended to limit a user's right as against third parties.

**Q. What if I paid another user or gave them money to deposit?**

A. That user had the opportunity when using User Portal 1.0 to add members to transactions that were actually the deposits of other users. The Receiver will have a tool available in User Portal 2.0 for users to transfer their deposits to other users, but **only if** there is an inter-user dispute or an objection based on the Receiver not recognizing internal transfers. The Claims Procedures also state that nothing in this process is intended to limit a user's right as against third parties.

**Q. What is the "Convenience Class" and why am I in it?**

A. A large percentage of users deposited a relatively small amount of money, as compared to other users. Because the rising tide percentage will be increased over time, the incremental distributions to those users would be very small amounts. The Proposed Plan provides that the Receiver does not have to make distributions if the amount to be distributed is less than \$50. For users who deposited less than \$1,000, the Receiver is going to set a one-time percentage that is not expected to ever be increased, and those users will get a single up-front distribution. This will reduce the costs on the receivership and will eliminate the need for most very small distributions.

# EXHIBIT 3

Subject: EminiFX Proposed Plan of Distribution

Dear EminiFX User:

The Receiver has filed with the Court a proposed distribution plan (the “Proposed Plan”). The Proposed Plan sets out a framework for how EminiFX User Claims will be calculated and how distributions will be made.

The Receiver has created a special page on the receivership website to summarize and explain the key parts of the Proposed Plan. You can access that page, along with the Proposed Plan, [here](#).

This email is provided to give you information on the Proposed Plan and to explain how to provide any feedback. However, nothing is **required** from you at this time.

On August 14, 2024 at 7:00 p.m. (EDT), the Receiver will hold a Town Hall to explain the Distribution Plan. If you have any questions that you would like to ask at the Town Hall, please email [EminiFX@Stretto.com](mailto:EminiFX@Stretto.com) with the subject “Town Hall Question.” Due to the expected volume of feedback, please understand that the Receiver may not be able to answer every question at the Town Hall, but he will do his best.

The Receiver welcomes feedback on the distribution plan:

- All feedback will be **anonymous**.
- You can provide positive or negative feedback with **no penalty to you**.
- To provide feedback, log on to your [User Portal](#). You will see a box where you can type in your feedback and hit “Submit.” Feedback submitted any other way will be disregarded and not submitted to the Court.
- **You must submit any feedback by August 26, 2024.**
- Feedback will be filed with the Court with no personally identifying information.
- DO NOT submit specific information about you or your transactions in your feedback. Please limit feedback to the Plan itself.
- Threatening or lewd language may be stricken from the submission to the Court.

This email does **not** guarantee that you will receive a distribution. Distributions will not occur until:

- The Proposed Plan is approved by the Court.
- The Receiver launches an updated portal (“Portal 2.0”), and Users validate their payment information on Portal 2.0.
- Any remaining disputed transactions are resolved, which Users will be able to do using Portal 2.0.
- Any other account issues are resolved.

However, those Users with large withdrawals pre-receivership may not be entitled to a distribution under the “rising tide” method, which is explained on the [Plan Website](#).

The Receiver is currently estimating October 2024 for the release of Portal 2.0, and is currently targeting the end of 2024 to commence distributions to Users whose accounts have no open issues. Those dates are subject to change. All users will receive an email when Portal 2.0 is launched, so **please continue to monitor your email**.

There are four key aspects of the Proposed Plan that apply to every Claim:

- Your claim will consist solely of your verified deposits, and your verified withdrawals will be used to offset distributions.
- ROI, bonuses, and internal transfers will not be part of a Claim.
- Distributions will be calculated using the “rising tide” method.
- Most users who deposited more than \$1,000 will receive both an initial distribution payment, and additional payments at later dates if the Receiver is able to return more EminiFX funds to Users. Most users who deposited \$1,000 or less will receive a one-time distribution payment.

For more information, please visit the [Plan Website](#). In addition to an explanation of the Proposed Plan, that page also contains a link to the Proposed Plan itself, as well as a number of potential questions and answers that users may have.

We understand that this has been a lengthy process, and that users have been waiting patiently for their distributions. With the filing of this Proposed Plan, we are moving one step closer to commencing distributions. Thank you for your time and your patience.

Sincerely,

The EminiFX Receivership Team

# EXHIBIT 4



# EminiFX, Inc. COMPENSATION PLAN



WELCOME

UPDATED OCTOBER 2021 v3.5.0

## OUR VISION

**Hi there - Welcome to EminiFX!**

**We would like to thank you for joining our trading club and trusting us with your trading needs.**

**We very much look forward to starting this journey with you. As you probably already know, Cryptocurrency and Forex trading are beneficial for a number of things, including the savings in cost and time, flexibility and also the numerous trading options available. With trading volumes being in the trillions daily and rising, it is also important to partner up with a reliable company that understands all of the risks that are involved.**

**After two and a half years, the members of the PowerTraders club thought that it was time to take up their platform to the next level – and that’s how the online trading club and platform called EminiFX, Inc came to be. EminiFX.com was then established in September 2021, providing Club Members with an affordable solution offering easy access to cryptocurrency and Forex trading. This was obviously done using the latest technology available, in this case entitled “Robo-Assisted Advisor Account (RA3)”.**

**Through our own cryptocurrency exchange “EminiFX Exchange”, it is our intention to aggregate other cryptocurrency exchanges, non-bank, dark pools and prime liquidity providers, Forex and cryptocurrency brokers, OTC orders of institutional clients, and also hedge funds. This in turn will enable us to create one of the deepest liquidity pools in the industry.**

**While we know you’re excited to get started, we also ask you to invest some time in reviewing the critical details of our comprehensive industry**

**leading compensation plan.**

**We truly look forward to an amazing journey together building sustainable wealth and investments. The journey to financial freedom is not an easy one, but together we know we'll get there.**

**Thank you and best regards,**

**EminiFX**

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# KNOW YOUR CUSTOMER (KYC) POLICY

## STANDARDS

- The objective of KYC guidelines is to prevent banks from being used, intentionally or unintentionally, by criminal elements for money laundering activities. Related procedures also enable banks to better understand their Club Members and their financial dealings. This helps them manage their risks in a well-judged manner. Today not only the banks but also different online businesses can implement KYC. They usually frame their KYC policies incorporating the following four key elements:
  - Customer Acceptance Policy;
  - Customer Identification Procedures;
  - Monitoring of Transactions; and
  - Risk Management

EminiFX aims to minimize the risk of fraud, by identifying suspicious elements earlier on in the client-business relationship lifecycle. For the purposes of a KYC policy, a *customer/member* may be defined as:

- any person or entity that maintains an account and/or has a business relationship with EminiFX
- one on whose behalf the account is maintained (i.e. the beneficial owner);
- beneficiaries of transactions conducted EminiFX
- any person or entity connected with a financial transaction which can pose significant reputational or other risks to EminiFX, for example, a wire transfer or issue of a high-value demand draft as a single transaction

## TYPICAL CONTROLS

- KYC controls typically include the following:
  - Collection and analysis of basic personally identifiable information.
  - Screening of identity particulars (PII) against global watch-lists to determine the status of public exposure (politically exposed person or PEP) and adverse media.
  - Determination of the customer's risk in terms of the tendency to commit money laundering, terrorist finance, or identity theft.
  - Creation and assessment of a 'Customer Profile' on the basis of a customer's transactional behaviour <sup>3</sup>
  - Monitoring of a customer's transactions against expected behaviour and recorded profile as well as that of the customer's peers

## TERMS & CONDITIONS

- All members must be 18 years of age or older.
- While more than one account is allowed per household, only one account is allowed per member and/or business entity. The use and/or registration of multiple accounts, including those belonging to minors, non-consenting family members or fictitious aliases are strictly prohibited and will result in the forfeiture of all accounts, both authorized and non-authorized.

# EARNINGS DISCLAIMER

## DISCLAIMER

By using this website, platform, products or services, you fully understand and agree to legally comply with this Risk Disclosure and Disclaimer.

From time to time, the Company may report on the success of one of its existing or prior clients/Club Members. The information about this success is accurately portrayed by the Customer. You acknowledge that the prior success of others does not guarantee your success. As with any business, your results may vary and will be based on your individual capacity, business experience, expertise, and level of desire. There are no guarantees concerning the level of success you may experience. There is no guarantee that you will make any income at all and you accept the risk that the earnings and income statements differ by individual. Each individual's success depends on his or her background, dedication, desire and motivation. The use of our information, products and services should be based on your own due diligence and you agree that the Company is not liable for any success or failure of your business that is directly or indirectly related to the purchase and use of our information, products, and services reviewed or advertised.

All information contained herein should be independently verified and confirmed. We do not accept any liability for any loss or damage whatsoever caused in reliance upon such information or services. Please be aware of the risks involved with any trading done in any financial market. Do not trade with money that you cannot afford to lose. When in doubt, you should consult a qualified financial advisor before making any investment decisions.

Trading and investing in cryptocurrencies (also called digital or virtual currencies, crypto assets, altcoins and so on) as well as Forex involves substantial risk of loss and is not suitable for every investor. The valuation of cryptocurrencies, Forex, and futures may fluctuate, and, as a result, clients may lose more than their original investment. The highly leveraged nature of futures trading means that small market movements will have a great impact on your trading account and this can work against you, leading to large losses or can work for you, leading to large gains.

If the market moves against you, you may sustain a total loss greater than the amount you deposited into your account. You are responsible for all the risks and financial resources you use and for the chosen trading system. You should not engage in trading unless you fully understand the nature of the transactions you are entering into and the extent of your exposure to loss. If you do not fully understand these risks you must seek independent advice from your financial advisor.

All MT4/MT5 or self trading strategies are used at your own risk.

Any content on this site should not be relied upon as advice or construed as providing recommendations of any kind. It is your responsibility to confirm and decide which trades to make. Trade only with risk capital; that is, trade with money that, if lost, will not adversely impact your lifestyle and your ability to meet your financial obligations. Past results are no indication of future performance. In no event should the content of this correspondence be construed as an express or implied promise or guarantee.

EminiFX, Inc. and its subsidiaries are not responsible for any losses incurred as a result of using any of our trading strategies.

I hereby acknowledge that I have read and agree to the Terms & Conditions and states in the above Earnings Disclaimer by EminiFX, Inc. and its subsidiaries and understand the risks involved.

Name

Signature

Date

## TRADING (MT4/MT5 ACCOUNTS)

### TRADING ON EminiFX'S MT4/MT5 PLATFORM

EminiFX offers Club Members the ability to trade on its registered platform without having to invest in the (Robo Assisted Account Advisor RA3.) Members are trading on the open market and may trade any currency pairs provided to them.

EminiFX does NOT hold any liability for funds traded in member's MT4/MT5 personal accounts.

Club Members who are trading on their own **MT4/MT5 accounts** may have use of the MetaTrader Marketplace offering personal AI and EA software. Club members must use these services and products at their own discretion as these are 3<sup>rd</sup> party vendors and NOT associated with EminiFX.

### PERFORMANCE FEES (30% from RA<sup>3</sup> Trading Bonus)

No Charge for MT4/MT5.

### ACCOUNT CLUB MEMBERSHIP SERVICE FEES

No Charge for MT4/MT5.

### Trading Fees

See Comparison Chart Below

# PLAN COMPARISON CHART

| ACCOUNT COMPARISON           | ROBO-ASSISTED ACCOUNT ADVISOR (RA <sup>3</sup> ) | INDEPENDENT TRADER MT4/MT5 |
|------------------------------|--|----------------------------|
| ALL 12x Packages             | From \$99.00 to \$2M+                            | From \$99 to 2M+           |
|                              |  |                            |
| <b>MONTHLY SERVICE FEE</b>   | <b>\$/MO</b>                                     | <b>\$/MO</b>               |
| ALL 12x Packages             | \$29.99/mo                                       | Waived                     |
| Affiliates-ONLY or Marketing | \$9.99/mo  | Waived                     |
|                              |  |                            |
| <b>PERFORMANCE FEE</b>       | <b>% PROFITS EARNED</b>                          | <b>% PROFITS EARNED</b>    |
| ALL packages                 | 30%  | Waived                     |
|                              |  |                            |
| <b>COMMISSIONS</b>           | <b>USD PER LOT</b>                               | <b>USD PER LOT</b>         |
| Starter Pack                 | Waived   | \$15                       |
| Platinum                     | Waived   | \$10                       |
| Ruby                         | Waived   | \$3                        |
| Spot Metals (All accounts)   | Waived   | \$25                       |
|                              |  |                            |
| <b>SPREAD</b>                | <b>PIPS</b>                                      | <b>PIPS</b>                |
| Fiat Standard                | Waived   | 1.6                        |
| Fiat VIP                     | Waived   | 0.8                        |
| Crypto Standard              | Waived   | 1.6                        |
| Crypto VIP                   | Waived   | 0.8                        |
|                              |  |                            |
| <b>ADDITIONAL FEATURES</b>   | <b>RA3</b>                                       | <b>MT4/MT5</b>             |
| ALL deposits and transfers   | 0.5%   | Waived                     |
| 1% Cash Back                 | Sapphire level and above                         | N/A                        |
| 10% first deposit match      | N/A  | up to \$1,500              |

# MT4/MT5 AFFILIATE BONUSES

\* PLEASE NOTE ACTIVE MEMBER ACCOUNT REQUIRED TO PARTICIPATE IN THIS PROGRAM!

## SPONSOR TREE

EminiFX uses a simple unilevel structure for it's MT4/MT5 Self Trading Accounts.

**Your Sponsor Tree** includes everyone you personally enroll and every new member they go on to enroll. Your personally enrolled business partners will be positioned on your first level. Everyone they personally enroll will be positioned on your second level, and so on. **There is no limit to the number of partners you can personally enroll.**

Bonuses calculated from your Sponsor Tree:

- Residual Income**

## PLACEMENT TREE

There is no Placement Tree for Self Trading MT4/MT5 Accounts

## HOLDING TANK

The MT4/MT5 Affiliate Program does not employ the use of a Holding Tank

The MT4/MT5 Affiliate Program is **separate** from the RA3 Affiliate Program and requires a separate registration and enrollment.

# MT4/MT5 AFFILIATE BONUSES (CONT.)

\* PLEASE NOTE ACTIVE MEMBER ACCOUNT REQUIRED TO PARTICIPATE IN THIS PROGRAM!

## RESIDUAL BONUS

All active members will receive residual income calculated from the fees paid by their direct affiliates.

Calculations are based on Level 1 bonuses. (E.g. - Sponsor receives 15% of total commissions paid by Level 1, and Level 2 pays 1% of the total fees paid from Level 1.)

See Chart Below:

| Level<br>(All Members) | Commissions | Spreads<br>(per Lot)<br>Standard | Spreads<br>(per Lot)<br>Platinum | Spreads<br>(per Lot)<br>VIP |
|------------------------|-------------|----------------------------------|----------------------------------|-----------------------------|
| 1                      | 15%         | \$5.00                           | \$4.00                           | \$1.65                      |
| 2                      | 2%          | \$1.00                           | \$0.80                           | \$0.33                      |
| 3                      | 1%          | \$0.50                           | \$0.40                           | \$0.165                     |
| 4                      | 1%          | \$0.50                           | \$0.40                           | \$0.165                     |
| 5                      | 1%          | \$0.50                           | \$0.40                           | \$0.165                     |

# TRADING (RA3 ACCOUNTS)

## TRADING GAINS & LOSSES

Trading earnings (aka bonuses) include all amounts derived from trading on EminiFX's MT4/MT5 Trading Platform. Trades include both cryptocurrency and Forex activities.

Trading gains & losses are posted weekly and can be withdrawn anytime. Trading bonuses posted to the e-wallet **include** performance fees (see below.)

Earnings will vary based on market conditions, robot strategies, and algorithms used. Please note automated trading is only offered on managed accounts and manual trading or manipulation of strategies by anyone other than EminiFX is at the sole discretion and responsibility of the member!

## PERFORMANCE FEES

A Performance Fee is applied to positive returns and is equal to the amount of trading PROFITS earned based on the following criteria: (Excludes commissions earned from the Affiliate Referral Program)

- Meets or exceeds HWM (High Water Mark) criteria
- All accounts are subject to a performance fee equal to 30% of all trading profits.** This fee, if applicable, is automatically deducted weekly from current trading balances.

**EXAMPLE (FIAT):** \* For informational purposes only. Not intended to project earnings.

- \$10,000 trading account is subject to a 30% performance fee. Assuming this account earns \$1000 in trading profits.
- EminiFX will collect 30% of the trading profits only ( $\$1000 \times 30\% = \$300$ )
- Member collects 70% of the trading profits ( $\$1000 \times 70\% = \$700$ )

**EXAMPLE (CRYPTO):** \* For informational purposes only. Not intended to project earnings.

- 1.0 BTC is subject to a 30% performance fee. Assuming this account earns 0.1 BTC in trading profits.
- EminiFX will collect 30% of the trading profits only ( $0.1 \text{ BTC} \times 30\% = 0.03 \text{ BTC}$ )
- Member collects 70% of the trading profits ( $0.1 \text{ BTC} \times 70\% = 0.07 \text{ BTC}$ )

## ACCOUNT CLUB MEMBERSHIP SERVICE FEES

The monthly service fee is charged and required to be paid in order to maintain an ACTIVE account. <sup>10</sup>

***Please see the reference Fee Schedule table***



# GENEALOGY TREES

## SPONSOR TREE

**Your SponsorTree** includes everyone you personally enroll and every new member they go on to enroll. **Your personally enrolled business partners will be positioned on your first level.** Everyone they personally enroll will be positioned on your second level, and so on. There is no limit to the number of partners you can personally enroll. There is no Sponsor and affiliate in our organization, just sponsor and affiliate.

Bonuses calculated from your Sponsor Tree:

- **Direct Referral Bonus**
- **Fast Track Bonus**
- **WEEKLY PROFITS SHARING BONUS Bonus**

## PLACEMENT TREE

In your Placement Tree you are free to place newly enrolled business partners anywhere in your affiliate. There are different reasons why Leaders may choose to place differently including **A)** geographical considerations, **B)** personal relationships, **C)** team building considerations, **D)** attempting to reach new Ranks.

Bonus considerations from Placement Tree:

- **Rank Achievement Bonuses**
- **Profit Pool Shares**

## HOLDING TANK

All newly registered members will be placed in a Holding Tank for a period of up to 48 hours in order to allow the Sponsor to place them in the Genealogy Tree. The newly registered member will be able to access their back office during this time and may **“not”** start using their registration link until **“Activated.”** If the sponsor is unavailable, the Administrator will place them in the Genealogy Tree

If placement has not been completed by the Sponsor or an Admin after 48 hours, the system will automatically assign placement to **Sponsor’s 1<sup>st</sup> level.**

**\*All Placements are final and cannot be undone even by the admin!**

# AFFILIATE BONUSES

\* PLEASE NOTE ACTIVE MEMBER ACCOUNT REQUIRED TO PARTICIPATE IN THIS PROGRAM!

**1-To qualify for Affiliate Bonuses, members must have ONE of the following:**

Active Trading Account holding balances of **\$99.00** or more (Starter Pack Account or higher.) - OR -

Active Marketing License which may be obtained by paying a one-time administrative fee of **\$49.95 + \$9.99/mo.**

**-AND-**

2- All club membership services fees are paid up to date.

## IMMEDIATE DIRECT REFERRAL BONUS (All Packages, including Affiliate Package members)

**Paid to Sponsor upon funding of their direct referral's trading account.**

**Based on package selected by direct referral based on the following breakdown: \***

- 1- \$99-499 **Starter Pack** qualifies Sponsor for **\$10** package bonus.
- 2- \$500-\$2,499 **Bronze Package** qualifies Sponsor for **\$50** package bonus.
- 3- \$2,500-\$4,999 **Silver Package** qualifies Sponsor for **\$125** package bonus.
- 4- \$5,000-\$9,999 **Gold Package** qualifies Sponsor for **\$250** package bonus.
- 5- \$10,000-\$24,999 **Platinum Package** qualifies Sponsor for **\$500** package bonus.
- 6- \$25,000-\$49,999 **Ruby Package** qualifies Sponsor for **\$1,250** package bonus.
- 7- \$50,000-\$99,999 **Sapphire Package** qualifies Sponsor for **\$2,500** package bonus.
- 8- \$100,00-\$249,999 **Emerald Package** qualifies Sponsor for **\$5,000** package bonus.
- 9- \$250,000-\$499,999 **Executive Diamond Package** qualifies Sponsor for **\$15,000** package bonus.
- 10- \$500,000-\$999,999 **Founders Executive Diamond Package** qualifies Sponsor for **\$25,000** package bonus.
- 11- \$1,000,000-\$1,999,999 **Crown Ambassador Package** qualifies Sponsor for **\$50,000** package bonus.
- 12- \$2,000,000-more **Founders Crown Ambassador Package** qualifies Sponsor for **\$100,000** package bonus.
- (Upgrades in packages qualify the Sponsor to receive the difference in referral bonus.)**

EXAMPLE: Sponsor a Bronze package and receive \$50. If that member later upgrades to Platinum package he will receive an additional \$450! (Platinum package = \$500 bonus minus \$50 already paid to the member for the Bronze membership qualification.)

## IMMEDIATE INDIRECT REFERRAL BONUS (All Packages, including Affiliate Package members)

This bonus qualifies the Sponsor to **receive a matching percentage of all Direct Referral bonuses** earned from their direct affiliate (Sponsor tree) up to 7 levels. **Does not apply to other commissions and bonuses received through the Referral Program for packages.**

**All Ranks Qualify.** Including Affiliates holding an ACTIVE Marketing License.

- First Level** - Receive 5% of Direct Referral Bonus paid to affiliate.
- Second Level** - Receive 2% of Direct Referral Bonus paid to affiliate.
- Third Level** - Receive 1% of Direct Referral Bonus paid to affiliate.
- Fourth Level** - Receive 1% of Direct Referral Bonus paid to affiliate.
- Fifth Level** - Receive 1% of Direct Referral Bonus paid to affiliate.
- Sixth Level** - Receive 0.5% of Direct Referral Bonus paid to affiliate.
- Seventh Level** - Receive 0.5% of Direct Referral Bonus paid to affiliate.

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## AFFILIATE BONUSES (CONT.)

\* PLEASE NOTE ACTIVE MEMBER ACCOUNT REQUIRED TO PARTICIPATE IN THIS PROGRAM!

### WEEKLY PROFITS PAIRING BONUS (All Packages)

This bonus qualifies the Sponsor to receive a matching percentage of all trading bonuses earned from their direct affiliate (Sponsor tree) **for up to 9 levels.**

- First Level - Receive 5% of Trading Bonus paid to affiliate weekly.
- Second Level - Receive 2% of Trading Bonus paid to affiliate weekly.
- Third Level - Receive 1% of Trading Bonus paid to affiliate weekly.
- Fourth Level - Receive 1% of Trading Bonus paid to affiliate weekly.
- Fifth Level - Receive 1% of Trading Bonus paid to affiliate weekly.
- Sixth Level - Receive 0.5% of Trading Bonus paid to affiliate weekly.
- Seventh Level - Receive 0.5% of Trading Bonus paid to affiliate weekly.
- Eighth Level - Receive 0.25% of Trading Bonus paid to affiliate weekly.
- Ninth Level - Receive 0.25% of Trading Bonus paid to affiliate weekly.

### MONTHLY RESIDUAL INCOME (All Packages)

This bonus qualifies the Sponsor to receive a percentage of all services fees paid by their direct affiliate (Sponsor tree) for up to 9 levels.

- First Level - Receive 5% of CLUB MEMBERSHIP SERVICE FEES paid by affiliate MONTHLY.
- Second Level - Receive 2% of CLUB MEMBERSHIP SERVICE FEES paid by affiliate MONTHLY.
- Third Level - Receive 1% of CLUB MEMBERSHIP SERVICE FEES paid by affiliate MONTHLY.
- Fourth Level - Receive 1% of CLUB MEMBERSHIP SERVICE FEES paid by affiliate MONTHLY.
- Fifth Level - Receive 1% of CLUB MEMBERSHIP SERVICE FEES paid by affiliate MONTHLY.
- Sixth Level - Receive 0.5% of CLUB MEMBERSHIP SERVICE FEES paid by affiliate MONTHLY.
- Seventh Level - Receive 0.5% of CLUB MEMBERSHIP SERVICE FEES paid by affiliate MONTHLY.
- Eighth Level - Receive 0.25% of CLUB MEMBERSHIP SERVICE FEES paid by affiliate MONTHLY.
- Ninth Level - Receive 0.25% of CLUB MEMBERSHIP SERVICE FEES paid by affiliate MONTHLY.

## AFFILIATE BONUSES (CONT.)

\* PLEASE NOTE ACTIVE MEMBER ACCOUNT REQUIRED TO PARTICIPATE IN THIS PROGRAM!

### FAST TRACK BONUS (All Packages)

Personally enroll a minimum of 3 Bronze or higher members within **45 days of registering** a trading account and **receive \$150** (payable after 60 days of registration date.)

Personally enroll a minimum of 3 Silver or higher members **within 45 days of registering** your trading account and **receive \$750** (payable after 60 days of registration date.)

**It is possible to qualify for BOTH Fast Track Bonuses.** If a Bronze member upgrades, then it will be considered for the higher of the two Ranks. Sponsors may, however, only qualify for ONE of each bonus.

- **EXAMPLE:** Directly Sponsor 2 Bronze + 6 Silver Members =
  - \$150 Bonus (2 Bronze + 1 Silver) + **\$750 Bonus** (3 Silver)
- **EXAMPLE:** Directly Sponsor 6 Bronze Members =
  - \$150 Bonus (3 Bronze)

**THE FAST TRACK BONUS ENDS AFTER 45 DAYS.**

## AFFILIATE BONUSES (CONT.)

\* PLEASE NOTE ACTIVE MEMBER ACCOUNT REQUIRED TO PARTICIPATE IN THIS PROGRAM!

### MONTHLY RANK ACHIEVEMENT BONUS

EminiFX members are awarded for their achievements building their business through the Rank Achievement Program. In order to qualify for Rank Achievements, members must meet several qualifications including:

- a. Personal Volume (PV) +
- b. Group Volume (GV),
- c. Rank Qualifications of affiliate from Placement Tree and
- d. Qualifying (3)Leg(s) Volume Distribution.

See Chart Below:

| Rank                     | PV        | GV            | Max Vol Leg 1 | Max Vol Leg 2 | Max Vol Leg 3 | affiliate Rank Requirement                    |
|--------------------------|-----------|---------------|---------------|---------------|---------------|---|
| Associate                | \$99      | N/A           | N/A           | N/A           | N/A           | N/A   |
| Platinum Associate       | \$500     | \$25,000      | \$15,000      | \$15,000      | N/A           | 3 Associates                                  |
| Jr Executive             | \$2,500   | \$50,000      | \$30,000      | \$30,000      | N/A           | 1 Platinum Associate                          |
| Executive                | \$3,500   | \$250,000     | \$150,000     | \$150,000     | N/A           | 1 Jr Executive or 3 Plat Assoc                |
| Sr Executive             | \$5,000   | \$1,000,000   | \$450,000     | \$450,000     | \$450,000     | 1 Executive or 2 Jr. Executives               |
| Jr. Director             | \$10,000  | \$5,000,000   | \$2,250,000   | \$2,250,000   | \$2,250,000   | 2 Sr Executives or 1 Sr + 2 Jr Execs          |
| Director                 | \$25,000  | \$10,000,000  | \$4,500,000   | \$4,500,000   | \$4,500,000   | 1 Jr Director or 3 Sr. Executives             |
| Sr. Director             | \$50,000  | \$25,000,000  | \$11,250,000  | \$11,250,000  | \$11,250,000  | 1 Director or 2 Jr. Directors                 |
| 1 Star* Ambassador       | \$100,000 | \$50,000,000  | \$22,500,000  | \$22,500,000  | \$22,500,000  | 1 Sr Director + 2 Directors                   |
| 2 Star* Ambassador       | \$250,000 | \$100,000,000 | \$45,000,000  | \$45,000,000  | \$45,000,000  | (2x) 1-Star Ambassadors                       |
| Crown Founder Ambassador | \$500,000 | \$200,000,000 | \$90,000,000  | \$90,000,000  | \$90,000,000  | 1x 2-Star Ambassador + (2x) 1-Star Ambassador |

# AFFILIATE BONUSES (CONT.)

\* PLEASE NOTE ACTIVE MEMBER ACCOUNT REQUIRED TO PARTICIPATE IN THIS PROGRAM!

## MONTHLY FRANK ACHIEVEMENT BONUS AMOUNTS (payable within qualifying month or as indicated.)

**Platinum Associate:** One time **\$150** USD bonus payable upon achieving qualifying Rank.

**Junior Executive:** One time **\$750** USD bonus payable upon achieving qualifying Rank.

**Executive:** One time **\$1,500** USD bonus payable upon achieving qualifying Rank.

**Senior Executive:** One time **\$2,500** USD bonus payable upon achieving qualifying Rank.

\* **Rank Achievers for Junior Director and Higher must hold the qualifying position for 3 consecutive months in order to receive the entire bonus.** Bonuses will be paid in installments over the course of 3 months as indicated for each qualifying rank below. Failure to qualify for any given month will forfeit remaining bonus payments until the member requalifies.

**Junior Director:** One time **\$5,000** USD bonus payable as follows: Month 1: \$2000, Month 2: \$2000, Month 3 \$1000.

**Director:** One time **\$10,000** USD bonus payable as follows: Month 1: \$4000, Month 2: \$4000, Month 3 \$2000.

**Senior Director:** One time **\$25,000** bonus payable as follows: Month 1: \$10,000, Month 2: \$10,000, Month 3 \$5000.

**1 Star Ambassador:** One time **\$50,000** bonus payable as follows: Month 1: \$20,000, Month 2: \$20,000, Month 3 \$10,000. **1-Star Ambassadors** who remain top achievers over a three months period enjoy the privilege of sharing EminiFX's Luxury Cars Executive fleet of Mercedes-Benz S-Class or equivalent all fees paid by EminiFX for as long as they remain at that level. (Subject to change.)

**2 Star Ambassador:** One time **\$150,000** USD bonus payable as follows: Month 1: \$60,000, Month 2: \$60,000, Month 4: \$30,000. **2-Star Ambassadors** who remain top achievers over a three months period enjoy the privilege of sharing EminiFX's Executive Luxury Executive fleet of Mercedes G-Class or Equivalent, all fees paid by EminiFX for as long as they remain at that level. (Subj

## ● QUARTERLY PROFIT SHARING POOL (1-Star Ambassador and Higher)

Higher Qualifying Ranks are eligible to receive a percentage of the COMPANY's quarterly net profits. 10% of all quarterly net profit earnings are entered into a pool, for all qualifying Ranks within that pool to share, payable on the **15<sup>th</sup> of day** following the close of the quarter.

| Quarter         | Date Paid  | %Net Profit Shared | % Net Profits Shared      | %Net Profits Shared   |                         |
|-----------------|------------|--------------------|---------------------------|-----------------------|-------------------------|
|                 |            |                    | <b>Sr. Executive Pool</b> | <b>Directors Pool</b> | <b>Ambassadors Pool</b> |
| Jan 1 -Mar 31   | April 15th | 2%                 | 2%                        | 3%                    | 5%                      |
| Apr 1 -June 30  | July 15th  | 2%                 | 2%                        | 3%                    | 5%                      |
| July 1 -Sept 30 | Oct 15th   | 2%                 | 2%                        | 3%                    | 5%                      |
| Oct 1 -Dec 31   | Jan 15th   | 2%                 | 2%                        | 3%                    | 5%                      |

- **Example:** 1<sup>st</sup> Quarter Company Net Profits = \$100,000 x 10% = \$10,000

\$10,000 would be distributed as follows: \$2000 to be shared by all qualifying Sr Executives + \$3000 to be shared by all Directors + \$5000 to be shared by all Ambassadors. (Expect to change.)

**Crown Founder Ambassador:** One time **\$300,000** USD bonus payable as follows:

Month 1: \$120,000,

Month 2: \$120,000,

Month 3: \$60,000.

**Crown Founder Ambassadors** who remain top achievers over a three months period enjoy the privilege of sharing EminiFX's Founder's Club Luxury fleet of **Bentley Flying Spur Range** or Equivalent, all fees paid by EminiFX for as long as they remain at that level. (Subject to change.)

## PAYMENT SCHEDULE & FEES (SUBJECT TO CHANGE)

### DEPOSITS

Deposits can be made **24 hours daily x 7 days weekly** onto EminiFX Trading Platform in the form of cryptocurrency.

Accounts will commence trading within approximately 24 - 48 hours of initial deposit.

### WITHDRAWALS

**E-wallet payout requests may be made at any time.** Please allow up to 24-48 hours for the release to be processed.

A- **0.0004 BTC fee (Subject to change)** is charged by **CoinPayments our (Crypto processor)\*** for each transaction plus any applicable **Blockchain network fees**.

Funds will be transferred at current market value at the time the payout is released.

**Capital investments** may be withdrawn by requesting an Investment Payout from TRADING WALLET/WITHDRAW module. Investment payouts may also be requested at any time. However, these payouts require up to **7 – 14 business days** to process and are subject to the following fees:

- **Investment Payout Requests made within 3 months** (days 1 through 14) of registration will NOT be subject to a **15% Processing Fee**. Members may request a full refund minus any fees, trading or affiliate bonuses paid.
- **Investment Payout Requests made within 3 months** (days 15 through 90) of registration will **BE SUBJECT** to a **15% Processing Fee**.
- **All requests to withdraw trading balances** may be completed through the “WITHDRAW” menu in the “TRADING WALLET”.
- *\*ALL COINPAYMENT FEES ARE SUBJECT TO CHANGE*

### CLUB MEMBERSHIP SERVICE FEES

A monthly maintenance fee will be automatically charged in order to service and maintain each account on the first of every month (Robo-Assisted Advisor Account RA3 only.)

**Fee Schedule as follows:**

- All Trading Accounts **no exceptions - \$29.99/monthly USD** (subject to change.)
- All Marketing License accounts - **\$9.99/monthly USD** (subject to change.)
- Accounts missing more than one month’s payment will be **deactivated**.



# CANCELLATION POLICY

## ● CANCELLATION POLICY

Members may request a full refund within **14 calendar days of funding** minus any fees, trading or affiliate bonuses paid. **Return of deposits require 7 to 14 business days to process.**

## ● INACTIVE ACCOUNT POLICY

An account may remain active by qualifying for one of the following:

**Have a trading account of \$99 or more. All CLUB MEMBERSHIP SERVICE FEES** must be paid to date. – OR -

**Have an affiliate-only package of \$49.95.** All services fees must be paid to date.

An account becomes inactive when it fails to meet one of the criteria mentioned above.

A previously active account will have a period of 30 days to satisfy one of the criteria mentioned above to restore their account before it is deleted. After 60 days, accounts will be permanently deleted.

**An account that was registered and funded will have a total of 10 days to fund their newly registered account before it is permanently deleted.** A new registration will be required.

## DEFINITIONS

- **Active:** defined as either having a trading account of **\$99.00** (Starter Pack) or higher with all monthly CLUB MEMBERSHIP SERVICE FEES of **\$29.99** paid up to date, OR, a Marketing License of **\$49.95** with all monthly subscription fees of **\$9.99** paid up to date.
- **The COMPANY:** defined as **EminiFX, Inc., EminiFX, Ltd., EminiFX Exchange, or EminiFX Advisors, LLC.**
- **QUARTERLY PROFITS SHARING BONUS:** Quarterly commissions paid to Sponsor calculated from profits earned from direct affiliate.
- **Cryptocurrency:** a digital currency in which encryption techniques are used to regulate the generation of units of currency and verify the transfer of funds, operating independently of a central bank.
- **affiliate:** all legs and members in your organization.
- **Forex:** Foreign Exchange Market is a global decentralized market for the trading of currencies.
- **GV: Group Volume,** includes all member qualifying trading volume in your organization.
- **HWM (High Water Mark):** A high-water mark is the highest peak in value that an investment fund or account has reached. This term is often used in the context of fund manager compensation, which is performance-based. The high-water mark ensures the manager does not get paid large sums for poor performance. If the manager loses money over a period, he must get the fund above the high-water mark before receiving a performance bonus.
- **Placement Tree:** genealogy or relationship tree representing all members in your organization.
- **Profit:** trading gains earned above amount deposited for trading activities. Excludes commissions earned from the Affiliate Referral Program.
- **PV: Personal Volume,** includes all personal qualifying trading volume.
- **Rank:** qualifying MLM position gained through growth of your business.
- **Referral Bonus:** commission paid to Sponsor for personally enrolling another member,
- **Sponsor:** a member who directly enrolls another member using their affiliate sponsor link.
- **Sponsor Tree:** genealogy or relationship tree representing all personally sponsored members in your organization and their personally sponsored affiliates.

# EXHIBIT 5



# EminiFX, Inc. COMPENSATION PLAN



2022



UPDATED FEBRUARY 2022 v.1.1.0

## OUR VISION

Hi there and welcome to EminiFX!

We would like to thank you for joining our investment club and trusting us with your trading transactions.

We very much look forward to starting this journey with you. As you probably already know, cryptocurrency and Forex trading are beneficial for a number of reasons, including saving you costs and time, and having flexibility and numerous trading options. With trading volumes being in the trillions daily and rising, it is also important to partner with a reliable company that understands all of the risks involved.

After two and a half years, the members of the PowerTraders club thought that it was time to take their platform to the next level—and that's how EminiFX, Inc., the online trading club and platform, came to be. EminiFX.com was then opened to the public in September 2021, providing Club Members with an affordable solution that offers easy access to cryptocurrency and Forex trading. We did this consciously, using the latest technology available, in this case a robo-assisted advisor account (RA3). We are now welcoming you to our newest achievements in the world of deep machine learning and artificial intelligence (a.i.).

Through our own cryptocurrency exchange “EminiFX Exchange,” it is our intention to aggregate other cryptocurrency exchanges, non-bank, dark pools and prime liquidity providers, Forex and cryptocurrency brokers, OTC orders of institutional clients, and hedge funds. This then will enable us to create one of the deepest liquidity pools in the industry.

While we know you're excited to get started, we first ask you to invest some time to review the critical details of our comprehensive, industry-leading compensation plan.

We truly look forward to an amazing journey together, building sustainable wealth and investments. The journey to financial freedom is not an easy one, but together we know we'll get there.

Thank you and best regards,

The EminiFX Team

# KNOW YOUR CUSTOMER (KYC) POLICY

## ● STANDARDS

The objective of Know Your Customer (**KYC**) guidelines is to prevent banks from being used, intentionally or unintentionally, by criminal elements for money laundering activities. Related procedures also enable banks to better understand their customers or club members and their financial dealings, which helps them manage their risks in a well-judged manner. Today, not only banks but also various other online businesses can implement **KYC**. They usually frame their **KYC** policies by incorporating the following four key elements:

- Customer Acceptance Policy;
- Customer Identification Procedures;
- Monitoring of Transactions; and
- Risk Management

- EminiFX aims to minimize the risk of fraud by identifying suspicious elements early on in the client–business relationship lifecycle. For the purposes of a KYC policy, a customer/member may be defined as:

- any person or entity that maintains an account and/or has a business relationship with EminiFX;
- one on whose behalf the account is maintained (i.e., the beneficial owner);
- beneficiaries of transactions conducted by EminiFX
- any person or entity connected with a financial transaction which can pose significant reputational or other risks to EminiFX, for example, a wire transfer or issue of a high-value demand draft as a single transaction.

## ● TYPICAL CONTROLS

- KYC controls typically include the following:
  - Collection and analysis of basic personally identifiable information (PII).
  - Screening of identity particulars (i.e., PII) against global watchlists to determine the status of public exposure (politically exposed person, or PEP) and adverse media.
  - Determination of the customer's risk in terms of the tendency to commit money laundering, terrorist finance, or identity theft.
  - Creation and assessment of a Customer Profile on the basis of a customer's transactional behavior.
  - Monitoring of a customer's transactions against expected behavior and recorded profile as well as that of the customer's peers.

# EARNINGS DISCLAIMER

- **DISCLAIMER**

- By using this website, platform, products or services, you fully understand and agree to legally comply with this Risk Disclosure and Disclaimer.
- From time to time, the Company may report on the success of one of its existing or prior clients/Club Members. The information about this success is accurately portrayed by the Customer. You acknowledge that the prior success of others does not guarantee your success. As with any business, your results may vary and will be based on your individual capacity, business experience, expertise, and level of desire. There are no guarantees concerning the level of success you may experience. There is no guarantee that you will make any income at all and you accept the risk that the earnings and income statements differ by individual. Each individual's success depends on his or her background, dedication, desire, and motivation. The use of our information, products, and services should be based on your own due diligence and you agree that the Company is not liable for any success or failure of your business that is directly or indirectly related to the purchase and use of our information, products, and services reviewed or advertised.
- All information contained herein should be independently verified and confirmed. We do not accept any liability for any loss or damage whatsoever caused in reliance upon such information or services. Please be aware of the risks involved with any trading done in any financial market. Do not trade with money that you cannot afford to lose. When in doubt, you should consult a qualified financial advisor before making any investment decisions.
- Trading and investing in cryptocurrencies (also called digital or virtual currencies, crypto assets, altcoins, and so on) as well as Forex involves substantial risk of loss and is not suitable for every investor. The valuation of cryptocurrencies, Forex, and futures may fluctuate, and, as a result, clients may lose more than their original investment. The highly leveraged nature of futures trading means that small market movements will have a great impact on your trading account and this can work against you, leading to large losses or can work for you, leading to large gains.
- If the market moves against you, you may sustain a total loss greater than the amount you deposited into your account. You are responsible for all the risks and financial resources you use and for the chosen trading system. You should not engage in trading unless you fully understand the nature of the transactions you are entering into and the extent of your exposure to loss. If you do not fully understand these risks you must seek independent advice from your financial advisor.
- Any content on this site should not be relied upon as advice or construed as providing recommendations of any kind. It is your responsibility to confirm and decide which trades to make. Trade only with risk capital; that is, trade with money that, if lost, will not adversely impact your lifestyle and your ability to meet your financial obligations. Past results are no indication of future performance. In no event should the content of this correspondence be construed as an express or implied promise or guarantee.
- EminiFX, Inc. and its subsidiaries are not responsible for any losses incurred as a result of using any of our trading strategies.

I hereby acknowledge that I have read and agree to the Terms & Conditions as stated in the above Earnings Disclaimer by EminiFX, Inc. and its subsidiaries and understand the risks involved.

Name

Signature

Date

## ACCOUNT CLUB MEMBERSHIP SERVICE FEES

ACCOUNT CLUB MEMBERSHIP SERVICE FEES

- The monthly membership fee is currently \$49.99

TRADING FEES

- See Comparison Chart below.

## TERMS & CONDITIONS

- All members must be 18 years of age or older.
- While more than one account is allowed per household, only one account is allowed per member and/or business entity. The use and/or registration of multiple accounts, including those belonging to minors, non-consenting family members or fictitious aliases are strictly prohibited and will result in the forfeiture of all accounts, both authorized and non-authorized.



## PLAN CHART

| ACCOUNT COMPARISON             | ROBO-ASSISTED ACCOUNT ADVISOR (RA3) |
|--------------------------------|-------------------------------------|
| ALL 12x Packages               | From \$99.00 to \$2M+               |
|                                |                                     |
| MONTHLY SERVICE FEE            | \$/MO                               |
| ALL 12x Packages               | \$49.99/mo                          |
|                                |                                     |
| ADDITIONAL FEATURES            | RA3                                 |
| ALL deposits and transfers     | See Schedule                        |
| Quarterly Profits Sharing Pool | 5% every quarter                    |

## TRADING (RA3 ACCOUNTS)

### ● TRADING GAINS & LOSSES

- RA3 Trading gains and losses are posted weekly and can be withdrawn anytime. Trading bonuses posted to the e-wallet **include** performance fees (see below). EminiFX reserves the right to share the profits between **5.00%-9.99%** weekly from prior week gains.
- RA3 Earnings will vary based on market conditions, robot strategies, and algorithms used. Please note that automated trading is only offered on managed accounts and manual trading or manipulation of strategies by anyone other than EminiFX is at the sole discretion and responsibility of the member.

### ● ACCOUNT CLUB MEMBERSHIP SERVICE FEES

- The monthly membership service fee is charged and required to be paid in order to maintain an active account.
- *Please see the reference Fee Schedule table*

# GENEALOGY TREES

## ● SPONSOR TREE

- Your Sponsor Tree includes everyone you personally enroll and every new member they enroll. Your personally enrolled business partners will be positioned on your first level. Everyone they personally enroll will be positioned on your second level, and so on. There is no limit to the number of partners you can personally enroll. There is no upline and downline in our organization, just sponsor and affiliate.
- Bonuses calculated from your Sponsor Tree:
  - Direct Referral Bonus
  - Fast Track Bonus
  - Weekly Profits Sharing Bonus

## ● PLACEMENT TREE

- In your Placement Tree you are free to place newly enrolled business partners anywhere in your affiliate. There are different reasons why Leaders may choose to place differently, including A) geographical considerations, B) personal relationships, C) team-building considerations, D) attempting to reach new ranks.
- Bonus considerations from your Placement Tree:
  - Rank Achievement Bonuses
  - Profit Pool Shares

## ● HOLDING TANK

- All newly registered members will be placed in a **Holding Tank for a period of up to 1 hour** to allow the sponsor to place them in the Genealogy Tree. The newly registered member will be able to access their back office during this time and may not start using their registration link until “Activated.” If the sponsor is unavailable, the administrator will place them in the Genealogy Tree.
- If placement has not been completed by the sponsor or an administrator after 1 hour, the system will automatically assign placement to the sponsor's first-level.
- \*All placements are final and **cannot be undone** even by the administrator.

# AFFILIATE BONUSES

\* PLEASE NOTE: ACTIVE MEMBER ACCOUNT REQUIRED TO PARTICIPATE IN THIS PROGRAM

- **1. To qualify for Affiliate Bonuses, members must have ONE of the following:**
  - Active Trading Account holding balances of **\$99.00** or more (Starter Pack Account or higher); OR

**-AND-**
- **2. All club membership services fees are paid up to date.**
- **IMMEDIATE DIRECT REFERRAL BONUS** (All Packages, including Affiliate Package members)
  - Paid to sponsor upon funding of their direct referral's trading account.
  - Based on package selected by direct referral, based on the following breakdown:
    - \$99-499 Starter Pack qualifies Sponsor for **\$5** package bonus.
    - \$500-\$2,499 Bronze package Package qualifies Sponsor for **\$25** package bonus.
    - \$2,500-\$4,999 Silver Package qualifies Sponsor for **\$125** package bonus.
    - \$5,000-\$9,999 Gold Package qualifies Sponsor for **\$250** package bonus.
    - \$10,000-\$24,999 Platinum Package qualifies Sponsor for **\$500** package bonus.
    - \$25,000-\$49,999 Ruby Package qualifies Sponsor for **\$1,250** package bonus.
    - \$50,000-\$99,999 Sapphire Package qualifies Sponsor for **\$2,500** package bonus.
    - \$100,00-\$249,999 Emerald Package qualifies Sponsor for **\$5,000** package bonus.
    - \$250,000-\$499,999 Executive Diamond Package qualifies Sponsor for **\$15,000** package bonus.
    - \$500,000-\$999,999 Founders Executive Diamond Package qualifies Sponsor for **\$25,000** package bonus.
    - \$1,000,000-\$1,999,999 Crown Ambassador Package qualifies Sponsor for **\$50,000** package bonus.
    - \$2,000,000 and up Founders Crown Ambassador Package qualifies Sponsor for **\$100,000** package bonus.
    - (Upgrades in packages qualify the Sponsor to receive the difference in referral bonus.)

EXAMPLE: Sponsor a Bronze package and receive \$50. If that member later upgrades to Platinum package, Sponsor will receive an additional \$450. (Platinum package = \$500 bonus minus \$50 already paid to the member for the Bronze package membership qualification.)
- **IMMEDIATE INDIRECT REFERRAL BONUS** (All Packages, including Affiliate Package members)
  - This bonus qualifies the Sponsor to receive a matching percentage of all Direct Referral bonuses earned from their direct affiliate (*Sponsor tree*) up to **7** levels. **Does not apply to other commissions and bonuses received through the Referral Program for packages.**
  - **All Ranks Qualify**, including Affiliates holding an Active Marketing License.
    - **First Level** - Receive 5% of Direct Referral Bonus paid to affiliate.

- **Second Level** - Receive 2% of Direct Referral Bonus paid to affiliate.
- **Third Level** - Receive 1% of Direct Referral Bonus paid to affiliate.
- **Fourth Level** - Receive 1% of Direct Referral Bonus paid to affiliate.
- **Fifth Level** - Receive 1% of Direct Referral Bonus paid to affiliate.
- **Sixth Level** - Receive 0.5% of Direct Referral Bonus paid to affiliate.
- **Seventh Level** - Receive 0.5% of Direct Referral Bonus paid to affiliate.

## ● **WEEKLY PROFITS PAIRING BONUS (All Packages)**

- This bonus qualifies the Sponsor to receive a matching percentage of all trading bonuses earned from their direct affiliate (Sponsor Tree) for up to 9 levels.

- First Level - Receive 5% of Trading Bonus paid to affiliate weekly.
- Second Level - Receive 2% of Trading Bonus paid to affiliate weekly.
- Third Level - Receive 1% of Trading Bonus paid to affiliate weekly.
- Fourth Level - Receive 1% of Trading Bonus paid to affiliate weekly.
- Fifth Level - Receive 1% of Trading Bonus paid to affiliate weekly.
- Sixth Level - Receive 0.5% of Trading Bonus paid to affiliate weekly.
- Seventh Level - Receive 0.5% of Trading Bonus paid to affiliate weekly.
- Eighth Level - Receive 0.25% of Trading Bonus paid to affiliate weekly.
- Ninth Level - Receive 0.25% of Trading Bonus paid to affiliate weekly.

## ● **MONTHLY RESIDUAL INCOME (All Packages)**

- This bonus qualifies the Sponsor to receive a percentage of all service fees paid by their direct affiliate (Sponsor Tree) for up to 9 levels.

- First Level - Receive 5% of CLUB MEMBERSHIP SERVICE FEES paid by affiliate monthly.
- Second Level - Receive 2% of CLUB MEMBERSHIP SERVICE FEES paid by affiliate monthly.
- Third Level - Receive 1% of CLUB MEMBERSHIP SERVICE FEES paid by affiliate monthly.
- Fourth Level - Receive 1% of CLUB MEMBERSHIP SERVICE FEES paid by affiliate monthly.
- Fifth Level - Receive 1% of CLUB MEMBERSHIP SERVICE FEES paid by affiliate monthly.

- Sixth Level - Receive 0.5% of CLUB MEMBERSHIP SERVICE FEES paid by affiliate monthly.
- Seventh Level - Receive 0.5% of CLUB MEMBERSHIP SERVICE FEES paid by affiliate monthly.
- Eighth Level - Receive 0.25% of CLUB MEMBERSHIP SERVICE FEES paid by affiliate monthly.
- Ninth Level - Receive 0.25% of CLUB MEMBERSHIP SERVICE FEES paid by affiliate monthly.

## ● FAST TRACK BONUS (All Packages)

- Personally enroll a minimum of 3 Bronze packages or higher members within **45 days of registering** a trading account and **receive \$150** (payable after 60 days from registration date).

- Personally enroll a minimum of 3 Silver packages or higher members **within 45 days of registering** a trading account and **receive \$750** (payable after 60 days from registration date).

- **It is possible to qualify for BOTH Fast Track Bonuses.** If a Bronze package member upgrades, then it will be considered for the higher of the two ranks. Sponsors may, however, only qualify for one of each bonus.

- **EXAMPLE:** Directly sponsor 2 Bronze packages + 6 Silver package Members =

- **\$150 Bonus** (2 Bronze packages + 1 Silver) + **\$750 Bonus** (3 Silver)

- **EXAMPLE:** Directly Sponsor 6 Bronze packages Members =

- **\$150 Bonus** (3 Bronze packages)

### THE FAST TRACK BONUS ENDS AFTER 45 DAYS

## AFFILIATE BONUSES (CONT.)

\* PLEASE NOTE: ACTIVE MEMBER ACCOUNT REQUIRED TO PARTICIPATE IN THIS PROGRAM

## ● MONTHLY RANK ACHIEVEMENT BONUS

- EminiFX members are awarded for their achievements in building their business through the Rank Achievement Program. To qualify for Rank Achievements, members must meet several qualifications including:

- a. Personal Volume (PV);
- b. Group Volume (GV);
- c. Rank Qualifications of Affiliate from Placement Tree; and
- d. Qualifying (3) Legs Volume Distribution.

See Chart Below:

| Rank                     | PV        | GV            | Max Vol Leg 1 | Max Vol Leg 2 | Max Vol Leg 3 | Affiliate Rank Requirement                    |
|--------------------------|-----------|---------------|---------------|---------------|---------------|---|
| Associate                | \$99      | N/A           | N/A           | N/A           | N/A           | N/A   |
| Platinum Associate       | \$500     | \$25,000      | \$15,000      | \$15,000      | N/A           | 3 Associates                                  |
| Jr. Executive            | \$2,500   | \$50,000      | \$30,000      | \$30,000      | N/A           | 1 Platinum Associate                          |
| Executive                | \$3,500   | \$250,000     | \$150,000     | \$150,000     | N/A           | 1 Jr. Executive or 3 Plat Assoc               |
| Sr. Executive            | \$5,000   | \$1,000,000   | \$450,000     | \$450,000     | \$450,000     | 1 Executive or 2 Jr. Executives               |
| Jr. Director             | \$10,000  | \$5,000,000   | \$2,250,000   | \$2,250,000   | \$2,250,000   | 2 Sr. Executives or 1 Sr. + 2 Jr. Execs       |
| Director                 | \$25,000  | \$10,000,000  | \$4,500,000   | \$4,500,000   | \$4,500,000   | 1 Jr. Director or 3 Sr. Executives            |
| Sr. Director             | \$50,000  | \$25,000,000  | \$11,250,000  | \$11,250,000  | \$11,250,000  | 1 Director or 2 Jr. Directors                 |
| 1 Star* Ambassador       | \$100,000 | \$50,000,000  | \$22,500,000  | \$22,500,000  | \$22,500,000  | 1 Sr. Director + 2 Directors                  |
| 2 Star* Ambassador       | \$250,000 | \$100,000,000 | \$45,000,000  | \$45,000,000  | \$45,000,000  | (2x) 1-Star Ambassadors                       |
| Crown Founder Ambassador | \$500,000 | \$200,000,000 | \$90,000,000  | \$90,000,000  | \$90,000,000  | 1x 2-Star Ambassador + (2x) 1-Star Ambassador |

## AFFILIATE BONUSES (CONT.)

\* PLEASE NOTE: ACTIVE MEMBER ACCOUNT REQUIRED TO PARTICIPATE IN THIS PROGRAM

### ● MONTHLY RANK ACHIEVEMENT BONUS AMOUNTS (payable within qualifying month or as indicated).

- Platinum Associate: One time \$150 bonus payable upon achieving qualifying Rank.
- Junior Executive: One time \$750 bonus payable upon achieving qualifying Rank.
- Executive: One time \$1,500 bonus payable upon achieving qualifying Rank.
- Senior Executive: One time \$2,500 bonus payable upon achieving qualifying Rank.

\* Rank achievers for Junior Director and higher must hold the qualifying position for 3 consecutive months in order to receive the entire bonus. Bonuses will be paid in installations over the course of 3 months as indicated for each qualifying rank below. Failure to qualify for any given month will forfeit remaining bonus payments until the member requalifies.

- Junior Director: One time \$5,000 bonus payable as follows: Month 1: \$2000, Month 2: \$2000, Month 3 \$1000.
- Director: One time \$10,000 bonus payable as follows: Month 1: \$4000, Month 2: \$4000, Month 3 \$2000.
- Senior Director: One time \$25,000 bonus payable as follows: Month 1: \$10,000, Month 2: \$10,000, Month 3 \$5000.
- 1-Star Ambassador: One time \$50,000 bonus payable as follows: Month 1: \$20,000, Month 2: \$20,000, Month 3: \$10,000. 1-Star Ambassadors who remain top achievers over a 3-month period enjoy the privilege of sharing EminiFX's Luxury Cars Executive fleet of Mercedes-Benz S-Class or equivalent, with all fees paid by EminiFX for as long as they remain at that level. (*Subject to change.*)
- 2-Star Ambassador: One time \$150,000 bonus payable as follows: Month 1: \$60,000, Month 2: \$60,000, Month 4: \$30,000. 2-Star Ambassadors who remain top achievers over a 3-month period enjoy the privilege of sharing EminiFX's Executive Luxury Executive fleet of Mercedes G-Class or equivalent, with all fees paid by EminiFX for as long as they remain at that level. (*Subject to change.*)

### ● QUARTERLY PROFIT SHARING POOL (1-Star Ambassador and Higher)

- Higher Qualifying Ranks are eligible to receive a percentage of the Company's quarterly net profits. 5% of all quarterly net profit earnings are entered into a pool, for all qualifying Ranks within that pool to share, payable on the 15th day following the close of the quarter.

| Quarter        | Date Paid | Profits Shared          |
|----------------|-----------|-------------------------|
|                |           | <b>Ambassadors Pool</b> |
| Jan 1 -Mar 31  | April15th | 5%                      |
| Apr 1 -June 30 | July 15th | 5%                      |
| July1 -Sept 30 | Oct 15th  | 5%                      |
| Oct 1 -Dec 31  | Jan 15th  | 5%                      |

- **Example:** 1<sup>st</sup> Quarter Company Net Profits = \$100,000 x 5% = \$5,000  
\$5,000 would be distributed as follows: \$5000 to be shared by all qualifying Ambassadors.  
(Expect to change.)
- **Crown Founder Ambassador:** One time \$300,000 bonus payable as follows:
  - Month 1: \$120,000
  - Month 2: \$120,000
  - Month 3: \$60,000
- **Crown Founder Ambassadors** who remain top achievers over a 3-month period enjoy the privilege of sharing EminiFX's Founder's Club Luxury fleet of **Bentley Flying Spur Range** or equivalent, with all fees paid by EminiFX for as long as they remain at that level. (Subject to change.)
- **DEPOSITS**
  - Deposits can be made 24 hours a day x 7 days a week onto EminiFX's Trading Platform in the form of cryptocurrency (e.g. BTC).
  - Accounts will commence trading within approximately 24 hours for E-Wallets and immediate for BTC.
- **WITHDRAWALS**
  - E-wallet payout requests may be made at any time. Please allow 48 hours for the release to be **processed by EminiFX**.
  - A 0.0004 BTC fee (subject to change) is charged by CoinPayments.net, our primary Crypto processor or any fees by any other secondary processors, for each transaction plus any applicable Blockchain network fees. (All CoinPayments fees and other processors fees are subject to change.)
  - Funds will be transferred at current market value **at the time the payout is released**.
  - Capital investments (Trading Wallet) may be withdrawn by requesting an Investment Payout from the TRADING WALLET/WITHDRAW module. Investment payouts may also be requested at any time. However, these payouts require 14 business days to process and are subject to the following fees:



- **Investment Payout Requests made within 5 months** (days 1 through 150) of registration will be subject to a **15% Processing Fee**. Members may request a full refund minus any fees (15%), trading or affiliate bonuses paid.
- **Investment Payout Requests after 5 months** (days 151 onward) of the initial funding date **WILL NOT** be subject to a **15% Processing Fee**.
- **All requests to withdraw trading balances** may be completed through the **“WITHDRAW”** menu in the **TRADING WALLET**.

#### ● **CLUB MEMBERSHIP SERVICE FEES**

- A monthly maintenance fee will be automatically **charged TO THE TRADING WALLET** in order to service and maintain each account on the first of every month (robo-assisted advisor accounts only).

##### **Fee schedule as follows:**

- All Trading Accounts will be charged the monthly membership - no exceptions - \$49.99/monthly (subject to change).
- Accounts missing one month's payment will be deactivated and blocked until brought current. When blocked, the funds will not be invested nor produce any profits (ROI) until restored to fully active status.

# CANCELLATION POLICY

## ● CANCELLATION POLICY

- Members may request a full refund within **14 calendar days** of funding minus ANY processing fees, trading or affiliate bonuses paid. Return of deposits requires **14 business days** to process.


## ● INACTIVE ACCOUNT POLICY

- An account may remain active by qualifying for one of the following:
  - Have a trading account of \$99 or more. All Club Membership service fees must be paid to date; OR
  - An account becomes inactive when it fails to meet one of the criteria mentioned above.
  - A previously active account will have a period of 30 days to satisfy one of the criteria mentioned above to restore their account before it is BANNED. After 60 days, accounts will be permanently BLOCKED.
  - An account that was registered and not funded will have a total of seven (7) days to fund their newly registered account before it is permanently BLOCKED. A permission from the administration will be required for reactivation.

## DEFINITIONS

- **Active:** defined as either having a trading account of **\$99.00** (Starter Pack) or higher with all monthly Club Membership service fees of **\$49.99** paid up to date.
- **The Company:** defined as EminiFX, Inc., EminiFX, Ltd., EminiFX Exchange, or EminiFX Advisors, LLC.
- **Quarterly Profits Sharing Bonus:** Quarterly commissions paid to Sponsor calculated from profits earned from direct affiliate.
- **Cryptocurrency:** a digital currency in which encryption techniques are used to regulate the generation of units of currency and verify the transfer of funds, operating independently of a central bank.
- **Affiliate:** all legs and members in your organization.
- **Forex:** Foreign Exchange Market is a global, decentralized market for the trading of currencies.
- **Group Volume (GV):** includes all member-qualifying trading volume in your organization.
- **HWM (High Water Mark):** A high-water mark is the highest peak in value that an investment fund or account has reached. This term is often used in the context of fund manager compensation, which is performance-based. HWM ensures the manager does not get paid large sums for poor performance. If the manager loses money over a period, he must get the fund above the HWM before receiving a performance bonus.
- **Placement Tree:** genealogy or relationship tree representing all members in your organization.
- **Profit:** trading gains earned above amount deposited for trading activities. Excludes commissions earned from the Affiliate Referral Program.
- **Personal Volume (PV):** includes all personal qualifying trading volume.
- **Rank:** qualifying MLM position gained through growth of your business.
- **Referral Bonus:** commission paid to Sponsor for personally enrolling another member.
- **Sponsor:** a member who directly enrolls another member using their affiliate sponsor link.
- **Sponsor Tree:** genealogy or relationship tree representing all personally sponsored members in your organization and their personally sponsored affiliates.


# EXHIBIT 6

 Channel #finance\_accounting Mar 20, 2022

 **eddy.alexandre** @eddy.alexandre Mar 20, 2022 at 6:19 PM PDT

TD Bank Closure updates: Greetings to you all! This morning, I went personally to the bank to BLOCK any pending transactions in the main TD BANK account to prepare the complete closure in 3 days. We are now officially done with that account ending with 0637. We have transferred the funds to the second TD Bank account that will NOT accept deposits from members as a form of funding for packages. I have waited until after the payroll was processed to move forward. VERY IMPORTANT to take notice of that critical step.

Best regards,  
Eddy Alexandre | Pres/CEO

 3 reactions from 10 people

# EXHIBIT 7

Conversation

Clarelle Dieuveil (U031UQ3FXJ8)CD

**Happy Monday team!** Please Acknowledge this notice from the administration.

**CRITICAL WARNING:** As of today MONDAY MARCH28th any attempt to deposit funds into EminiFX' "closed" bank accounts at Bank of America ending in 3746 and TD BANK ending with 0637 will cause your account to be permanently blocked by accounting and all of your funds returned to you. Share that notice with your family and friends.

**EminiFX, Inc.**

Administration

3/28/2022, 5:29 PM

# EXHIBIT 8



**EminiFX, Inc.**  
**User Contributions by Week**  
**Exhibit 8**

| Week Ending  | TD Bank              | Bank of America      | CashApp             | Total Cash Contributions | CoinPayments (Contributions stated in USD) | Total Weekly User Contributions |
|--------------|----------------------|----------------------|---------------------|--------------------------|--|---------------------------------|
| 03-Sep-2021  | \$ 3,975             | \$ -                 | \$ -                | \$ 3,975                 | \$ -                                       | \$ 3,975                        |
| 10-Sep-2021  | \$ 8,000             | \$ -                 | \$ 500              | \$ 8,500                 | \$ -                                       | \$ 8,500                        |
| 17-Sep-2021  | \$ 37,475            | \$ -                 | \$ 500              | \$ 37,975                | \$ -                                       | \$ 37,975                       |
| 24-Sep-2021  | \$ 225               | \$ -                 | \$ -                | \$ 225                   | \$ 10                                      | \$ 235                          |
| 01-Oct-2021  | \$ 4,197             | \$ -                 | \$ 160              | \$ 4,357                 | \$ -                                       | \$ 4,357                        |
| 08-Oct-2021  | \$ 340               | \$ -                 | \$ 352              | \$ 692                   | \$ -                                       | \$ 692                          |
| 15-Oct-2021  | \$ 3,975             | \$ -                 | \$ 3,964            | \$ 7,939                 | \$ 9,294                                   | \$ 17,233                       |
| 22-Oct-2021  | \$ 265,768           | \$ -                 | \$ 8,275            | \$ 274,043               | \$ 2,085                                   | \$ 276,128                      |
| 29-Oct-2021  | \$ 356,654           | \$ 100               | \$ 20,200           | \$ 376,954               | \$ 3,697                                   | \$ 380,652                      |
| 05-Nov-2021  | \$ 389,260           | \$ 80,018            | \$ 11,501           | \$ 480,779               | \$ 20,890                                  | \$ 501,668                      |
| 12-Nov-2021  | \$ 312,721           | \$ 235,565           | \$ 8,781            | \$ 557,067               | \$ 13,910                                  | \$ 570,977                      |
| 19-Nov-2021  | \$ 736,461           | \$ 300,960           | \$ 8,512            | \$ 1,045,933             | \$ 61,276                                  | \$ 1,107,209                    |
| 26-Nov-2021  | \$ 574,657           | \$ 814,920           | \$ 8,180            | \$ 1,397,757             | \$ 142,170                                 | \$ 1,539,928                    |
| 03-Dec-2021  | \$ 853,078           | \$ 930,229           | \$ 10,300           | \$ 1,793,607             | \$ 288,053                                 | \$ 2,081,660                    |
| 10-Dec-2021  | \$ 773,695           | \$ 1,133,523         | \$ 8,400            | \$ 1,915,618             | \$ 349,330                                 | \$ 2,264,948                    |
| 17-Dec-2021  | \$ 848,117           | \$ 1,730,627         | \$ 9,000            | \$ 2,587,743             | \$ 561,391                                 | \$ 3,149,135                    |
| 24-Dec-2021  | \$ 1,192,346         | \$ 1,196,895         | \$ 11,804           | \$ 2,401,045             | \$ 831,482                                 | \$ 3,232,526                    |
| 31-Dec-2021  | \$ 802,055           | \$ 1,375,901         | \$ 8,601            | \$ 2,186,557             | \$ 515,734                                 | \$ 2,702,291                    |
| 07-Jan-2022  | \$ 1,118,873         | \$ 1,382,157         | \$ 19,401           | \$ 2,520,431             | \$ 403,654                                 | \$ 2,924,085                    |
| 14-Jan-2022  | \$ 1,317,414         | \$ 1,857,004         | \$ 28,620           | \$ 3,203,038             | \$ 660,824                                 | \$ 3,863,862                    |
| 21-Jan-2022  | \$ 1,442,533         | \$ 2,300,539         | \$ 57,290           | \$ 3,800,362             | \$ 494,467                                 | \$ 4,294,829                    |
| 28-Jan-2022  | \$ 2,316,676         | \$ 2,645,530         | \$ 55,880           | \$ 5,018,086             | \$ 953,465                                 | \$ 5,971,551                    |
| 04-Feb-2022  | \$ 2,133,358         | \$ 2,864,405         | \$ 74,821           | \$ 5,072,584             | \$ 869,983                                 | \$ 5,942,568                    |
| 11-Feb-2022  | \$ 2,644,135         | \$ 4,196,563         | \$ 117,017          | \$ 6,957,714             | \$ 1,493,811                               | \$ 8,451,525                    |
| 18-Feb-2022  | \$ 4,693,252         | \$ 1,837,770         | \$ 301,192          | \$ 6,832,214             | \$ 2,322,081                               | \$ 9,154,295                    |
| 25-Feb-2022  | \$ 6,268,467         | \$ 1,028,231         | \$ 313,905          | \$ 7,610,603             | \$ 3,610,580                               | \$ 11,221,183                   |
| 04-Mar-2022  | \$ 7,449,359         | \$ 701,928           | \$ 128,167          | \$ 8,279,454             | \$ 5,573,445                               | \$ 13,852,900                   |
| 11-Mar-2022  | \$ 8,143,185         | \$ 330,909           | \$ 59,330           | \$ 8,533,424             | \$ 7,109,475                               | \$ 15,642,899                   |
| 18-Mar-2022  | \$ 2,660,571         | \$ 114,470           | \$ 35,808           | \$ 2,810,850             | \$ 10,022,035                              | \$ 12,832,884                   |
| 25-Mar-2022  | \$ 739,842           | \$ 17,300            | \$ 32,314           | \$ 789,456               | \$ 12,844,731                              | \$ 13,634,187                   |
| 01-Apr-2022  | \$ 58,484            | \$ 16,500            | \$ 7,630            | \$ 82,614                | \$ 19,821,815                              | \$ 19,904,429                   |
| 08-Apr-2022  | \$ 383,648           | \$ (36,698)          | \$ 16,367           | \$ 363,317               | \$ 26,467,695                              | \$ 26,831,012                   |
| 15-Apr-2022  | \$ 307,431           | \$ 40,798            | \$ 13,568           | \$ 361,796               | \$ 24,293,490                              | \$ 24,655,287                   |
| 22-Apr-2022  | \$ 137,860           | \$ -                 | \$ 12,399           | \$ 150,259               | \$ 18,337,065                              | \$ 18,487,325                   |
| 29-Apr-2022  | \$ 50,752            | \$ -                 | \$ 12,815           | \$ 63,566                | \$ 15,521,794                              | \$ 15,585,360                   |
| 06-May-2022  | \$ 934,770           | \$ -                 | \$ 6,041            | \$ 940,811               | \$ 14,712,408                              | \$ 15,653,219                   |
| 13-May-2022  | \$ 859,820           | \$ -                 | \$ -                | \$ 859,820               | \$ 14,933,655                              | \$ 15,793,475                   |
| <b>Total</b> | <b>\$ 50,823,428</b> | <b>\$ 27,096,144</b> | <b>\$ 1,411,595</b> | <b>\$ 79,331,167</b>     | <b>\$ 183,245,795</b>                      | <b>\$ 262,576,962</b>           |

# EXHIBIT 9

**EminiFX, Inc.**  
**Weekly User Contributions and Withdrawals**  
*Exhibit 9*

| Week Ending  | Cash Contributions   | CoinPayments Contributions | Total Contributions   | Cash Withdrawals    | CoinPayments Withdrawals | Total Withdrawals      | Net Activity          | Cumulative User Net Activity |
|--------------|----------------------|----------------------------|-----------------------|---------------------|--------------------------|------------------------|-----------------------|------------------------------|
| 03-Sep-2021  | \$ 3,975             | \$ -                       | \$ 3,975              | \$ (1,300)          | \$ -                     | \$ (1,300)             | \$ 2,675              | \$ 2,675                     |
| 10-Sep-2021  | \$ 8,500             | \$ -                       | \$ 8,500              | \$ (1,695)          | \$ -                     | \$ (1,695)             | \$ 6,805              | \$ 9,480                     |
| 17-Sep-2021  | \$ 37,975            | \$ -                       | \$ 37,975             | \$ (1,895)          | \$ -                     | \$ (1,895)             | \$ 36,080             | \$ 45,560                    |
| 24-Sep-2021  | \$ 225               | \$ 10                      | \$ 235                | \$ (750)            | \$ -                     | \$ (750)               | \$ (515)              | \$ 45,045                    |
| 01-Oct-2021  | \$ 4,357             | \$ -                       | \$ 4,357              | \$ (1,390)          | \$ -                     | \$ (1,390)             | \$ 2,967              | \$ 48,012                    |
| 08-Oct-2021  | \$ 692               | \$ -                       | \$ 692                | \$ (800)            | \$ -                     | \$ (800)               | \$ (108)              | \$ 47,904                    |
| 15-Oct-2021  | \$ 7,939             | \$ 9,294                   | \$ 17,233             | \$ (507)            | \$ -                     | \$ (507)               | \$ 16,726             | \$ 64,630                    |
| 22-Oct-2021  | \$ 274,043           | \$ 2,085                   | \$ 276,128            | \$ (6,571)          | \$ -                     | \$ (6,571)             | \$ 269,557            | \$ 334,187                   |
| 29-Oct-2021  | \$ 376,954           | \$ 3,697                   | \$ 380,652            | \$ (6,239)          | \$ (6,697)               | \$ (12,936)            | \$ 367,716            | \$ 701,902                   |
| 05-Nov-2021  | \$ 480,779           | \$ 20,890                  | \$ 501,668            | \$ (5,892)          | \$ -                     | \$ (5,892)             | \$ 495,776            | \$ 1,197,679                 |
| 12-Nov-2021  | \$ 557,067           | \$ 13,910                  | \$ 570,977            | \$ (27,231)         | \$ -                     | \$ (27,231)            | \$ 543,746            | \$ 1,741,424                 |
| 19-Nov-2021  | \$ 1,045,933         | \$ 61,276                  | \$ 1,107,209          | \$ (31,450)         | \$ (523)                 | \$ (31,973)            | \$ 1,075,235          | \$ 2,816,660                 |
| 26-Nov-2021  | \$ 1,397,757         | \$ 142,170                 | \$ 1,539,928          | \$ (10,000)         | \$ (58,179)              | \$ (68,179)            | \$ 1,471,748          | \$ 4,288,408                 |
| 03-Dec-2021  | \$ 1,793,607         | \$ 288,053                 | \$ 2,081,660          | \$ (3,324)          | \$ (53,625)              | \$ (56,949)            | \$ 2,024,711          | \$ 6,313,119                 |
| 10-Dec-2021  | \$ 1,915,618         | \$ 349,330                 | \$ 2,264,948          | \$ (8,200)          | \$ (84,489)              | \$ (92,689)            | \$ 2,172,259          | \$ 8,485,378                 |
| 17-Dec-2021  | \$ 2,587,743         | \$ 561,391                 | \$ 3,149,135          | \$ (1,945)          | \$ (128,282)             | \$ (130,228)           | \$ 3,018,907          | \$ 11,504,285                |
| 24-Dec-2021  | \$ 2,401,045         | \$ 831,482                 | \$ 3,232,526          | \$ (2,519)          | \$ (178,264)             | \$ (180,783)           | \$ 3,051,743          | \$ 14,556,028                |
| 31-Dec-2021  | \$ 2,186,557         | \$ 515,734                 | \$ 2,702,291          | \$ (13,110)         | \$ (261,768)             | \$ (274,878)           | \$ 2,427,413          | \$ 16,983,441                |
| 07-Jan-2022  | \$ 2,520,431         | \$ 403,654                 | \$ 2,924,085          | \$ (501)            | \$ (231,633)             | \$ (232,134)           | \$ 2,691,951          | \$ 19,675,392                |
| 14-Jan-2022  | \$ 3,203,038         | \$ 660,824                 | \$ 3,863,862          | \$ (3,379)          | \$ (287,694)             | \$ (291,073)           | \$ 3,572,789          | \$ 23,248,181                |
| 21-Jan-2022  | \$ 3,800,362         | \$ 494,467                 | \$ 4,294,829          | \$ (501)            | \$ (217,617)             | \$ (218,118)           | \$ 4,076,711          | \$ 27,324,891                |
| 28-Jan-2022  | \$ 5,018,086         | \$ 953,465                 | \$ 5,971,551          | \$ (501)            | \$ (348,111)             | \$ (348,612)           | \$ 5,622,939          | \$ 32,947,830                |
| 04-Feb-2022  | \$ 5,072,584         | \$ 869,983                 | \$ 5,942,568          | \$ (4,811)          | \$ (394,870)             | \$ (399,682)           | \$ 5,542,886          | \$ 38,490,716                |
| 11-Feb-2022  | \$ 6,957,714         | \$ 1,493,811               | \$ 8,451,525          | \$ (39,115)         | \$ (608,134)             | \$ (647,249)           | \$ 7,804,277          | \$ 46,294,993                |
| 18-Feb-2022  | \$ 6,832,214         | \$ 2,322,081               | \$ 9,154,295          | \$ (34,101)         | \$ (714,310)             | \$ (748,410)           | \$ 8,405,885          | \$ 54,700,878                |
| 25-Feb-2022  | \$ 7,610,603         | \$ 3,610,580               | \$ 11,221,183         | \$ (18,140)         | \$ (1,001,786)           | \$ (1,019,925)         | \$ 10,201,258         | \$ 64,902,136                |
| 04-Mar-2022  | \$ 8,279,454         | \$ 5,573,445               | \$ 13,852,900         | \$ (11,675)         | \$ (911,888)             | \$ (923,563)           | \$ 12,929,336         | \$ 77,831,472                |
| 11-Mar-2022  | \$ 8,533,424         | \$ 7,109,475               | \$ 15,642,899         | \$ (22,225)         | \$ (1,408,357)           | \$ (1,430,582)         | \$ 14,212,318         | \$ 92,043,790                |
| 18-Mar-2022  | \$ 2,810,850         | \$ 10,022,035              | \$ 12,832,884         | \$ (32,071)         | \$ (1,649,399)           | \$ (1,681,470)         | \$ 11,151,414         | \$ 103,195,204               |
| 25-Mar-2022  | \$ 789,456           | \$ 12,844,731              | \$ 13,634,187         | \$ (21,036)         | \$ (2,364,722)           | \$ (2,385,759)         | \$ 11,248,428         | \$ 114,443,632               |
| 01-Apr-2022  | \$ 82,614            | \$ 19,821,815              | \$ 19,904,429         | \$ (141,226)        | \$ (2,833,346)           | \$ (2,974,572)         | \$ 16,929,857         | \$ 131,373,489               |
| 08-Apr-2022  | \$ 363,317           | \$ 26,467,695              | \$ 26,831,012         | \$ (206,013)        | \$ (6,222,089)           | \$ (6,428,102)         | \$ 20,402,910         | \$ 151,776,399               |
| 15-Apr-2022  | \$ 361,796           | \$ 24,293,490              | \$ 24,655,287         | \$ (49,553)         | \$ (6,367,399)           | \$ (6,416,952)         | \$ 18,238,335         | \$ 170,014,733               |
| 22-Apr-2022  | \$ 150,259           | \$ 18,337,065              | \$ 18,487,325         | \$ (11,670)         | \$ (1,132,868)           | \$ (1,144,538)         | \$ 17,342,787         | \$ 187,357,520               |
| 29-Apr-2022  | \$ 63,566            | \$ 15,521,794              | \$ 15,585,360         | \$ (10,000)         | \$ (3,245,072)           | \$ (3,255,072)         | \$ 12,330,288         | \$ 199,687,808               |
| 06-May-2022  | \$ 940,811           | \$ 14,712,408              | \$ 15,653,219         | \$ (253)            | \$ (2,574,435)           | \$ (2,574,688)         | \$ 13,078,531         | \$ 212,766,340               |
| 13-May-2022  | \$ 859,820           | \$ 14,933,655              | \$ 15,793,475         | \$ (5,000)          | \$ (29)                  | \$ (5,029)             | \$ 15,788,446         | \$ 228,554,786               |
| <b>Total</b> | <b>\$ 79,331,167</b> | <b>\$ 183,245,795</b>      | <b>\$ 262,576,962</b> | <b>\$ (736,588)</b> | <b>\$ (33,285,589)</b>   | <b>\$ (34,022,176)</b> | <b>\$ 228,554,786</b> |                              |

# EXHIBIT 10

## EminiFX, Inc.

## Total Accrued User Account Return on Investments ("ROI") and Bonuses [1]

## Exhibit 10

| Week Ending  | Direct Referral Bonus | Indirect Referral Bonus | Profit Pairing Bonuses | Monthly Residual Bonuses | Fast / Rank Bonuses | Total Bonuses        | Weekly ROI Percentage | User "ROI"            | Total Weekly User "ROI" and Bonuses | Cumulative User "ROI" and Bonuses |
|--------------|-----------------------|-------------------------|------------------------|--------------------------|---------------------|----------------------|-----------------------|-----------------------|-------------------------------------|-----------------------------------|
| 03-Sep-2021  | \$ -                  | \$ -                    | \$ -                   | \$ -                     | \$ -                | \$ -                 | N/A                   | \$ -                  | \$ -                                | \$ -                              |
| 10-Sep-2021  | \$ -                  | \$ -                    | \$ -                   | \$ -                     | \$ -                | \$ -                 | N/A                   | \$ -                  | \$ -                                | \$ -                              |
| 17-Sep-2021  | \$ -                  | \$ -                    | \$ -                   | \$ -                     | \$ -                | \$ -                 | N/A                   | \$ -                  | \$ -                                | \$ -                              |
| 24-Sep-2021  | \$ -                  | \$ -                    | \$ -                   | \$ -                     | \$ -                | \$ -                 | N/A                   | \$ -                  | \$ -                                | \$ -                              |
| 01-Oct-2021  | \$ -                  | \$ -                    | \$ -                   | \$ -                     | \$ -                | \$ -                 | N/A                   | \$ -                  | \$ -                                | \$ -                              |
| 08-Oct-2021  | \$ -                  | \$ -                    | \$ -                   | \$ -                     | \$ -                | \$ -                 | N/A                   | \$ -                  | \$ -                                | \$ -                              |
| 15-Oct-2021  | \$ 395                | \$ 28                   | \$ -                   | \$ -                     | \$ 140              | \$ 563               | N/A                   | \$ -                  | \$ 563                              | \$ 563                            |
| 22-Oct-2021  | \$ 58,515             | \$ 2,398                | \$ 2,641               | \$ -                     | \$ 1,950            | \$ 65,504            | 5.01%                 | \$ 29,333             | \$ 94,837                           | \$ 95,400                         |
| 29-Oct-2021  | \$ 36,715             | \$ 3,324                | \$ 6,285               | \$ -                     | \$ 1,760            | \$ 48,083            | 5.01%                 | \$ 64,087             | \$ 112,171                          | \$ 207,571                        |
| 05-Nov-2021  | \$ 26,950             | \$ 2,367                | \$ 10,028              | \$ -                     | \$ 720              | \$ 40,065            | 5.27%                 | \$ 101,427            | \$ 141,493                          | \$ 349,064                        |
| 12-Nov-2021  | \$ 44,785             | \$ 3,334                | \$ 16,311              | \$ -                     | \$ 2,490            | \$ 66,920            | 5.75%                 | \$ 167,205            | \$ 234,125                          | \$ 583,189                        |
| 19-Nov-2021  | \$ 69,750             | \$ 6,001                | \$ 19,681              | \$ -                     | \$ 4,390            | \$ 99,823            | 5.15%                 | \$ 198,200            | \$ 298,023                          | \$ 881,211                        |
| 26-Nov-2021  | \$ 96,930             | \$ 8,456                | \$ 41,456              | \$ -                     | \$ 9,060            | \$ 155,902           | 6.85%                 | \$ 412,245            | \$ 568,147                          | \$ 1,449,358                      |
| 03-Dec-2021  | \$ 114,685            | \$ 10,945               | \$ 49,818              | \$ -                     | \$ 7,120            | \$ 182,568           | 7.75%                 | \$ 493,500            | \$ 676,069                          | \$ 2,125,427                      |
| 10-Dec-2021  | \$ 134,705            | \$ 12,767               | \$ 81,128              | \$ -                     | \$ 9,590            | \$ 238,191           | 7.77%                 | \$ 795,348            | \$ 1,033,539                        | \$ 3,158,966                      |
| 17-Dec-2021  | \$ 160,765            | \$ 15,326               | \$ 117,994             | \$ -                     | \$ 12,610           | \$ 306,695           | 8.75%                 | \$ 1,150,827          | \$ 1,457,523                        | \$ 4,616,488                      |
| 24-Dec-2021  | \$ 235,830            | \$ 23,200               | \$ 165,175             | \$ -                     | \$ 18,090           | \$ 442,294           | 8.88%                 | \$ 1,587,322          | \$ 2,029,616                        | \$ 6,646,105                      |
| 31-Dec-2021  | \$ 173,630            | \$ 16,664               | \$ 243,547             | \$ -                     | \$ 17,140           | \$ 450,981           | 9.97%                 | \$ 2,316,491          | \$ 2,767,472                        | \$ 9,413,577                      |
| 07-Jan-2022  | \$ 201,130            | \$ 19,779               | \$ 150,676             | \$ -                     | \$ 7,340            | \$ 378,924           | 5.01%                 | \$ 1,427,352          | \$ 1,806,277                        | \$ 11,219,854                     |
| 14-Jan-2022  | \$ 84,675             | \$ 8,212                | \$ 180,053             | \$ -                     | \$ 5,840            | \$ 278,780           | 5.15%                 | \$ 1,699,283          | \$ 1,978,063                        | \$ 13,197,917                     |
| 21-Jan-2022  | \$ 105,850            | \$ 9,569                | \$ 205,263             | \$ -                     | \$ 6,370            | \$ 327,052           | 5.03%                 | \$ 1,927,016          | \$ 2,254,069                        | \$ 15,451,985                     |
| 28-Jan-2022  | \$ 669,925            | \$ 69,578               | \$ 321,614             | \$ -                     | \$ 51,910           | \$ 1,113,027         | 6.73%                 | \$ 3,008,715          | \$ 4,121,741                        | \$ 19,573,727                     |
| 04-Feb-2022  | \$ 418,545            | \$ 42,913               | \$ 304,803             | \$ -                     | \$ 32,220           | \$ 798,481           | 5.35%                 | \$ 2,840,196          | \$ 3,638,676                        | \$ 23,212,403                     |
| 11-Feb-2022  | \$ 560,475            | \$ 57,205               | \$ 633,721             | \$ -                     | \$ 30,240           | \$ 1,281,640         | 9.86%                 | \$ 6,286,342          | \$ 7,567,983                        | \$ 30,780,386                     |
| 18-Feb-2022  | \$ 993,000            | \$ 100,202              | \$ 878,147             | \$ -                     | \$ 47,740           | \$ 2,019,088         | 9.83%                 | \$ 8,137,072          | \$ 10,156,161                       | \$ 40,936,547                     |
| 25-Feb-2022  | \$ 988,930            | \$ 102,955              | \$ 1,096,670           | \$ -                     | \$ 53,720           | \$ 2,242,275         | 9.94%                 | \$ 10,127,441         | \$ 12,369,715                       | \$ 53,306,262                     |
| 04-Mar-2022  | \$ 1,184,070          | \$ 119,585              | \$ 1,276,662           | \$ -                     | \$ 78,680           | \$ 2,658,998         | 9.27%                 | \$ 11,745,125         | \$ 14,404,123                       | \$ 67,710,385                     |
| 11-Mar-2022  | \$ 1,229,745          | \$ 125,109              | \$ 1,635,449           | \$ -                     | \$ 82,980           | \$ 3,073,283         | 9.99%                 | \$ 15,017,929         | \$ 18,091,212                       | \$ 85,801,597                     |
| 18-Mar-2022  | \$ 1,620,705          | \$ 168,636              | \$ 2,060,858           | \$ -                     | \$ 101,590          | \$ 3,951,788         | 9.98%                 | \$ 18,866,397         | \$ 22,818,185                       | \$ 108,619,782                    |
| 25-Mar-2022  | \$ 2,526,100          | \$ 256,942              | \$ 2,457,542           | \$ -                     | \$ 122,630          | \$ 5,363,214         | 9.94%                 | \$ 22,453,933         | \$ 27,817,147                       | \$ 136,436,929                    |
| 01-Apr-2022  | \$ 2,546,735          | \$ 260,608              | \$ 2,974,445           | \$ 122,850               | \$ 163,800          | \$ 6,068,438         | 9.91%                 | \$ 27,094,011         | \$ 33,162,448                       | \$ 169,599,377                    |
| 08-Apr-2022  | \$ 2,340,305          | \$ 243,025              | \$ 3,626,666           | \$ -                     | \$ 223,940          | \$ 6,433,936         | 9.97%                 | \$ 32,994,299         | \$ 39,428,235                       | \$ 209,027,612                    |
| 15-Apr-2022  | \$ 1,767,320          | \$ 187,277              | \$ 2,160,628           | \$ -                     | \$ 192,520          | \$ 4,307,744         | 5.00%                 | \$ 19,613,492         | \$ 23,921,236                       | \$ 232,948,848                    |
| 22-Apr-2022  | \$ 1,403,620          | \$ 141,084              | \$ 2,417,483           | \$ -                     | \$ 161,790          | \$ 4,123,977         | 5.05%                 | \$ 21,918,090         | \$ 26,042,067                       | \$ 258,990,915                    |
| 29-Apr-2022  | \$ 1,472,485          | \$ 155,056              | \$ 2,631,537           | \$ -                     | \$ 96,380           | \$ 4,355,458         | 5.03%                 | \$ 23,812,084         | \$ 28,167,542                       | \$ 287,158,457                    |
| 06-May-2022  | \$ 1,413,325          | \$ 141,890              | \$ 2,929,391           | \$ 228,628               | \$ 116,330          | \$ 4,829,564         | 5.17%                 | \$ 26,481,266         | \$ 31,310,830                       | \$ 318,469,287                    |
| 13-May-2022  | \$ 769,170            | \$ 79,999               | \$ -                   | \$ -                     | \$ 54,080           | \$ 903,249           | N/A                   | \$ -                  | \$ 903,249                          | \$ 319,372,536                    |
| <b>Total</b> | <b>\$ 23,449,765</b>  | <b>\$ 2,394,434</b>     | <b>\$ 28,695,669</b>   | <b>\$ 351,478</b>        | <b>\$ 1,715,160</b> | <b>\$ 56,606,506</b> |                       | <b>\$ 262,766,030</b> | <b>\$ 319,372,536</b>               |                                   |

**Note:**

[1] = The Receiver does not believe that such accruals represent legitimate liabilities of EminiFX or the Receivership. See Fin. Cond. Report p.2 n.4

# EXHIBIT 11

**EminiFX, Inc.**  
**Interactive Brokers Account Activity by Week**  
*Exhibit 11*

| Week Ending  | Prior Balance   | Deposit             | Withdrawal         | Marked to Market Increase / (Decrease) | Commissions and Fees | Ending Balance      | % Increase / (Decrease) of Account Value |
|--------------|-----------------|---------------------|--------------------|--|----------------------|---------------------|--|
| 12/31/2021   | \$ 5,483        | \$ 1,000,000        | \$ -               | \$ (50,666)                            | \$ (250)             | \$ 954,567          | -5.06%                                   |
| 1/7/2022     | \$ 954,567      | \$ 10,000           | \$ -               | \$ (356,585)                           | \$ (2,787)           | \$ 605,196          | -37.26%                                  |
| 1/14/2022    | \$ 605,196      | \$ 2,000,000        | \$ -               | \$ (508,295)                           | \$ (1,977)           | \$ 2,094,924        | -19.59%                                  |
| 1/21/2022    | \$ 2,094,924    | \$ -                | \$ -               | \$ (920,780)                           | \$ (1,574)           | \$ 1,172,571        | -44.03%                                  |
| 1/28/2022    | \$ 1,172,571    | \$ 6,000,000        | \$ -               | \$ (2,783,226)                         | \$ (42,249)          | \$ 4,347,096        | -39.39%                                  |
| 2/4/2022     | \$ 4,347,096    | \$ 10,000           | \$ -               | \$ (650,702)                           | \$ (4,559)           | \$ 3,701,835        | -15.04%                                  |
| 2/11/2022    | \$ 3,701,835    | \$ -                | \$ -               | \$ (197,911)                           | \$ (2,326)           | \$ 3,501,598        | -5.41%                                   |
| 2/18/2022    | \$ 3,501,598    | \$ -                | \$ -               | \$ 936,751                             | \$ -                 | \$ 4,438,349        | 26.75%                                   |
| 2/25/2022    | \$ 4,438,349    | \$ -                | \$ (21,483)        | \$ 123,418                             | \$ -                 | \$ 4,540,285        | 2.79%                                    |
| 3/4/2022     | \$ 4,540,285    | \$ 10,000           | \$ -               | \$ 32,919                              | \$ (41)              | \$ 4,583,162        | 0.72%                                    |
| 3/11/2022    | \$ 4,583,162    | \$ -                | \$ -               | \$ (746,112)                           | \$ -                 | \$ 3,837,050        | -16.28%                                  |
| 3/18/2022    | \$ 3,837,050    | \$ -                | \$ -               | \$ 510,086                             | \$ (1,922)           | \$ 4,345,214        | 13.24%                                   |
| 3/25/2022    | \$ 4,345,214    | \$ -                | \$ -               | \$ (636,755)                           | \$ -                 | \$ 3,708,458        | -14.65%                                  |
| 4/1/2022     | \$ 3,708,458    | \$ 10,000           | \$ (40)            | \$ 133,815                             | \$ -                 | \$ 3,852,234        | 3.60%                                    |
| 4/8/2022     | \$ 3,852,234    | \$ -                | \$ -               | \$ (483,033)                           | \$ -                 | \$ 3,369,201        | -12.54%                                  |
| 4/15/2022    | \$ 3,369,201    | \$ -                | \$ -               | \$ (280,684)                           | \$ -                 | \$ 3,088,517        | -8.33%                                   |
| 4/22/2022    | \$ 3,088,517    | \$ -                | \$ (7,989)         | \$ (219,193)                           | \$ -                 | \$ 2,861,335        | -7.12%                                   |
| 4/29/2022    | \$ 2,861,335    | \$ -                | \$ -               | \$ (2,857)                             | \$ -                 | \$ 2,858,478        | -0.10%                                   |
| 5/6/2022     | \$ 2,858,478    | \$ -                | \$ (148)           | \$ 232,785                             | \$ -                 | \$ 3,091,115        | 8.14%                                    |
| 5/13/2022    | \$ 3,091,115    | \$ -                | \$ -               | \$ (1,338,338)                         | \$ (435)             | \$ 1,752,342        | -43.31%                                  |
| <b>Total</b> | <b>\$ 5,483</b> | <b>\$ 9,040,000</b> | <b>\$ (29,660)</b> | <b>\$ (7,205,361)</b>                  | <b>\$ (58,120)</b>   | <b>\$ 1,752,342</b> | <b>-80.56%</b>                           |

# EXHIBIT 12



**EminiFX, Inc.**  
**CoinPayments Weekly BitCoin Increases / (Decreases) in Value**  
**Exhibit 12**

| COINPAYMENTS WEEKLY BITCOIN INCREASES / (DECREASES) IN VALUE |                     |                  |                          |                          |                           |                    |                          |                        |   |
|--|---------------------|------------------|--------------------------|--------------------------|---------------------------|--------------------|--------------------------|------------------------|---|
| Week Ending  | Contributions (BTC) | Withdrawal (BTC) | Cumulative Balance (BTC) | User Contributions (USD) | Withdrawals and Transfers | Net Activity (USD) | Cumulative Balance (USD) | Marked to Market Value | Cumulative Increase / (Decrease) in Account Value |
| 24-Sep-2021  | 0.0002              | -                | 0.0002                   | \$ 10                    | -                         | \$ 10              | \$ 10                    | \$ 10                  | \$ 1  |
| 01-Oct-2021  | -                   | -                | 0.0002                   | \$ -                     | -                         | \$ -               | \$ 10                    | \$ 12                  | \$ 2  |
| 08-Oct-2021  | -                   | -                | 0.0002                   | \$ -                     | -                         | \$ -               | \$ 10                    | \$ 13                  | \$ 3  |
| 15-Oct-2021  | 0.1509              | -                | 0.1511                   | \$ 9,294                 | -                         | \$ 9,294           | \$ 9,304                 | \$ 9,309               | \$ 5  |
| 22-Oct-2021  | 0.0337              | -                | 0.1848                   | \$ 2,085                 | -                         | \$ 2,085           | \$ 11,389                | \$ 11,216              | \$ (173)  |
| 29-Oct-2021  | 0.0594              | (0.1091)         | 0.1351                   | \$ 3,697                 | (6,697)                   | \$ (2,999)         | \$ 8,389                 | \$ 8,408               | \$ 19   |
| 05-Nov-2021  | 0.3407              | -                | 0.4758                   | \$ 20,890                | -                         | \$ 20,890          | \$ 29,279                | \$ 29,086              | \$ (193)  |
| 12-Nov-2021  | 0.2136              | -                | 0.6894                   | \$ 13,910                | -                         | \$ 13,910          | \$ 43,189                | \$ 44,230              | \$ 1,041  |
| 19-Nov-2021  | 1.0044              | (0.0090)         | 1.6848                   | \$ 61,276                | (523)                     | \$ 60,753          | \$ 103,941               | \$ 97,918              | \$ (6,023)  |
| 26-Nov-2021  | 2.5067              | (1.0804)         | 3.1111                   | \$ 142,170               | (58,179)                  | \$ 83,991          | \$ 187,933               | \$ 166,661             | \$ (21,271)                                       |
| 03-Dec-2021  | 5.1507              | (0.9829)         | 7.2789                   | \$ 288,053               | (53,625)                  | \$ 234,428         | \$ 422,360               | \$ 390,138             | \$ (32,222)                                       |
| 10-Dec-2021  | 7.0191              | (1.7754)         | 12.5227                  | \$ 349,330               | (84,489)                  | \$ 264,840         | \$ 687,201               | \$ 591,614             | \$ (95,587)                                       |
| 17-Dec-2021  | 11.7822             | (2.7513)         | 21.5536                  | \$ 561,391               | (128,282)                 | \$ 433,109         | \$ 1,120,310             | \$ 995,822             | \$ (124,488)                                      |
| 24-Dec-2021  | 16.8490             | (3.5669)         | 34.8356                  | \$ 831,482               | (178,264)                 | \$ 653,218         | \$ 1,773,527             | \$ 1,770,423           | \$ (3,104)  |
| 31-Dec-2021  | 10.7316             | (5.5729)         | 39.9944                  | \$ 515,734               | (261,768)                 | \$ 253,966         | \$ 2,027,493             | \$ 1,851,998           | \$ (175,495)                                      |
| 07-Jan-2022  | 9.0020              | (5.4204)         | 43.5760                  | \$ 403,654               | (231,633)                 | \$ 172,021         | \$ 2,199,515             | \$ 1,810,928           | \$ (388,586)                                      |
| 14-Jan-2022  | 15.4399             | (6.6810)         | 52.3349                  | \$ 660,824               | (287,694)                 | \$ 373,130         | \$ 2,572,645             | \$ 2,255,618           | \$ (317,027)                                      |
| 21-Jan-2022  | 12.0793             | (5.7990)         | 58.6152                  | \$ 494,467               | (217,617)                 | \$ 276,850         | \$ 2,849,494             | \$ 2,136,954           | \$ (712,541)                                      |
| 28-Jan-2022  | 25.8119             | (9.3076)         | 75.1196                  | \$ 953,465               | (348,111)                 | \$ 605,354         | \$ 3,454,848             | \$ 2,838,343           | \$ (616,505)                                      |
| 04-Feb-2022  | 22.4816             | (9.7378)         | 87.8634                  | \$ 869,983               | (394,870)                 | \$ 475,113         | \$ 3,929,961             | \$ 3,646,406           | \$ (283,554)                                      |
| 11-Feb-2022  | 34.4110             | (14.3143)        | 107.9601                 | \$ 1,493,811             | (608,134)                 | \$ 885,677         | \$ 4,815,638             | \$ 4,578,366           | \$ (237,272)                                      |
| 18-Feb-2022  | 54.9947             | (17.6075)        | 145.3473                 | \$ 2,322,081             | (714,310)                 | \$ 1,607,771       | \$ 6,423,409             | \$ 5,818,394           | \$ (605,015)                                      |
| 25-Feb-2022  | 94.6344             | (25.7198)        | 214.2619                 | \$ 3,610,580             | (1,001,786)               | \$ 2,608,794       | \$ 9,032,203             | \$ 8,402,113           | \$ (630,090)                                      |
| 04-Mar-2022  | 130.3977            | (22.4223)        | 322.2373                 | \$ 5,573,445             | (911,888)                 | \$ 4,661,557       | \$ 13,693,760            | \$ 12,611,595          | \$ (1,082,166)                                    |
| 11-Mar-2022  | 179.7567            | (36.4361)        | 465.5578                 | \$ 7,109,475             | (1,408,357)               | \$ 5,701,118       | \$ 19,394,879            | \$ 18,061,303          | \$ (1,333,575)                                    |
| 18-Mar-2022  | 249.5724            | (40.9996)        | 674.1307                 | \$ 10,022,035            | (1,649,399)               | \$ 8,372,636       | \$ 27,767,514            | \$ 28,179,441          | \$ 411,927  |
| 25-Mar-2022  | 299.8585            | (54.6799)        | 919.3093                 | \$ 12,844,731            | (2,364,722)               | \$ 10,480,009      | \$ 38,247,523            | \$ 40,770,198          | \$ 2,522,676                                      |
| 01-Apr-2022  | 425.7043            | (82.1361)        | 1,262.8774               | \$ 19,821,815            | (3,820,022)               | \$ 16,001,793      | \$ 54,249,315            | \$ 58,448,193          | \$ 4,198,878                                      |
| 08-Apr-2022  | 596.1883            | (143.3603)       | 1,715.7054               | \$ 26,467,695            | (6,222,089)               | \$ 20,245,605      | \$ 74,494,921            | \$ 72,553,312          | \$ (1,941,609)                                    |
| 15-Apr-2022  | 598.5739            | (166.4756)       | 2,147.8037               | \$ 24,293,490            | (6,827,966)               | \$ 17,465,524      | \$ 91,960,445            | \$ 87,101,015          | \$ (4,859,430)                                    |
| 22-Apr-2022  | 449.5526            | (28.1425)        | 2,569.2138               | \$ 18,337,065            | (1,132,868)               | \$ 17,204,198      | \$ 109,164,643           | \$ 102,101,511         | \$ (7,063,132)                                    |
| 29-Apr-2022  | 393.6828            | (82.9331)        | 2,879.9635               | \$ 15,521,794            | (3,245,072)               | \$ 12,276,721      | \$ 121,441,364           | \$ 111,195,012         | \$ (10,246,352)                                   |
| 06-May-2022  | 386.1492            | (70.0572)        | 3,196.0555               | \$ 14,712,408            | (2,574,435)               | \$ 12,137,974      | \$ 133,579,338           | \$ 115,188,903         | \$ (18,390,435)                                   |
| 13-May-2022  | 485.6967            | (0.0010)         | 3,681.7512               | \$ 14,933,655            | (29)                      | \$ 14,933,626      | \$ 148,512,964           | \$ 107,813,197         | \$ (40,699,767)                                   |

# EXHIBIT 13

**EminiFX, Inc.**  
**Marked to Market Increases / (Decreases) in EminiFX's Holdings**  
*Exhibit 13*

| Week Ending | CashApp      | CoinPayments    | Interactive Brokers | Gemini       | Kot4X        | Real Estate  | Weekly Increases / (Decreases) in EminiFX Holdings | Cumulative Increases/ (Decreases) in EminiFX Holdings |
|-------------|--------------|-----------------|---------------------|--------------|--------------|--------------|--|---|
| 03-Sep-2021 | \$ 1,300     | \$ -            | \$ -                | \$ -         | \$ -         | \$ -         | \$ 1,300   | \$ 1,300  |
| 10-Sep-2021 | \$ 2,495     | \$ -            | \$ -                | \$ -         | \$ -         | \$ -         | \$ 1,195   | \$ 2,495  |
| 17-Sep-2021 | \$ 3,690     | \$ -            | \$ -                | \$ -         | \$ -         | \$ -         | \$ 1,195   | \$ 3,690  |
| 24-Sep-2021 | \$ 3,954     | \$ 1            | \$ -                | \$ -         | \$ -         | \$ -         | \$ 265   | \$ 3,955  |
| 01-Oct-2021 | \$ 4,140     | \$ 2            | \$ -                | \$ -         | \$ -         | \$ -         | \$ 187   | \$ 4,142  |
| 08-Oct-2021 | \$ 4,632     | \$ 3            | \$ -                | \$ -         | \$ -         | \$ -         | \$ 494   | \$ 4,635  |
| 15-Oct-2021 | \$ 2,723     | \$ 5            | \$ -                | \$ -         | \$ -         | \$ -         | \$ (1,907)   | \$ 2,728  |
| 22-Oct-2021 | \$ 1,532     | \$ (173)        | \$ -                | \$ 4         | \$ -         | \$ -         | \$ (1,366)   | \$ 1,362  |
| 29-Oct-2021 | \$ (6,369)   | \$ 19           | \$ -                | \$ (1,012)   | \$ -         | \$ -         | \$ (8,725)   | \$ (7,363)  |
| 05-Nov-2021 | \$ (8,872)   | \$ (193)        | \$ -                | \$ (1,343)   | \$ -         | \$ -         | \$ (3,045)   | \$ (10,408)   |
| 12-Nov-2021 | \$ (5,970)   | \$ 1,041        | \$ -                | \$ (2,129)   | \$ -         | \$ -         | \$ 3,351   | \$ (7,057)  |
| 19-Nov-2021 | \$ (4,553)   | \$ (6,023)      | \$ -                | \$ (5,264)   | \$ -         | \$ -         | \$ (8,783)   | \$ (15,840)   |
| 26-Nov-2021 | \$ (6,103)   | \$ (21,271)     | \$ -                | \$ (6,132)   | \$ -         | \$ -         | \$ (17,666)  | \$ (33,507)   |
| 03-Dec-2021 | \$ (14,158)  | \$ (32,222)     | \$ -                | \$ (6,330)   | \$ -         | \$ -         | \$ (19,204)  | \$ (52,711)   |
| 10-Dec-2021 | \$ (12,379)  | \$ (95,587)     | \$ -                | \$ (6,696)   | \$ -         | \$ -         | \$ (61,951)  | \$ (114,662)  |
| 17-Dec-2021 | \$ (3,122)   | \$ (124,488)    | \$ -                | \$ (6,879)   | \$ -         | \$ -         | \$ (19,827)  | \$ (134,488)  |
| 24-Dec-2021 | \$ (13,939)  | \$ (3,104)      | \$ 5,483            | \$ (6,336)   | \$ -         | \$ -         | \$ 116,593   | \$ (17,895)   |
| 31-Dec-2021 | \$ (21,527)  | \$ (175,495)    | \$ (45,433)         | \$ (13,156)  | \$ -         | \$ -         | \$ (237,715)                                       | \$ (255,611)  |
| 07-Jan-2022 | \$ (41,374)  | \$ (388,586)    | \$ (404,804)        | \$ (9,713)   | \$ -         | \$ -         | \$ (588,866)                                       | \$ (844,477)  |
| 14-Jan-2022 | \$ (67,025)  | \$ (317,027)    | \$ (915,076)        | \$ (4,648)   | \$ -         | \$ -         | \$ (459,298)                                       | \$ (1,303,775)  |
| 21-Jan-2022 | \$ (131,841) | \$ (712,541)    | \$ (1,837,429)      | \$ (18,994)  | \$ -         | \$ -         | \$ (1,397,030)                                     | \$ (2,700,805)  |
| 28-Jan-2022 | \$ (179,896) | \$ (616,505)    | \$ (4,662,904)      | \$ (26,703)  | \$ -         | \$ -         | \$ (2,785,204)                                     | \$ (5,486,009)  |
| 04-Feb-2022 | \$ (249,709) | \$ (283,554)    | \$ (5,318,165)      | \$ (22,453)  | \$ -         | \$ -         | \$ (387,872)                                       | \$ (5,873,881)  |
| 11-Feb-2022 | \$ (31,793)  | \$ (237,272)    | \$ (5,518,402)      | \$ (17,451)  | \$ -         | \$ -         | \$ 68,963  | \$ (5,804,918)  |
| 18-Feb-2022 | \$ (49,687)  | \$ (605,015)    | \$ (4,581,651)      | \$ (21,459)  | \$ -         | \$ -         | \$ 547,107   | \$ (5,257,811)  |
| 25-Feb-2022 | \$ (188,512) | \$ (630,090)    | \$ (4,458,233)      | \$ (31,149)  | \$ -         | \$ -         | \$ (50,173)  | \$ (5,307,984)  |
| 04-Mar-2022 | \$ (186,472) | \$ (1,082,166)  | \$ (4,425,355)      | \$ (35,822)  | \$ -         | \$ -         | \$ (421,831)                                       | \$ (5,729,815)  |
| 11-Mar-2022 | \$ (204,387) | \$ (1,333,575)  | \$ (5,171,467)      | \$ (41,789)  | \$ -         | \$ -         | \$ (1,021,403)                                     | \$ (6,751,218)  |
| 18-Mar-2022 | \$ (232,143) | \$ 411,927      | \$ (4,663,303)      | \$ (38,543)  | \$ -         | \$ -         | \$ 2,229,155                                       | \$ (4,522,063)  |
| 25-Mar-2022 | \$ (257,759) | \$ 2,522,676    | \$ (5,300,059)      | \$ (30,151)  | \$ -         | \$ -         | \$ 1,456,769                                       | \$ (3,065,294)  |
| 01-Apr-2022 | \$ (275,545) | \$ 4,198,878    | \$ (5,166,243)      | \$ (22,789)  | \$ 8,153     | \$ -         | \$ 1,807,747                                       | \$ (1,257,547)  |
| 08-Apr-2022 | \$ (297,383) | \$ (1,941,609)  | \$ (5,649,276)      | \$ (71,416)  | \$ (35,673)  | \$ -         | \$ (6,737,811)                                     | \$ (7,995,357)  |
| 15-Apr-2022 | \$ (326,210) | \$ (4,859,430)  | \$ (5,929,960)      | \$ (87,365)  | \$ (42,681)  | \$ -         | \$ (3,250,290)                                     | \$ (11,245,647)                                       |
| 22-Apr-2022 | \$ (360,300) | \$ (7,063,132)  | \$ (6,149,153)      | \$ (102,744) | \$ (61,080)  | \$ -         | \$ (2,490,762)                                     | \$ (13,736,409)                                       |
| 29-Apr-2022 | \$ (394,257) | \$ (10,246,352) | \$ (6,152,010)      | \$ (120,912) | \$ (86,659)  | \$ (22,014)  | \$ (3,285,796)                                     | \$ (17,022,204)                                       |
| 06-May-2022 | \$ (443,513) | \$ (18,390,435) | \$ (5,919,225)      | \$ (155,766) | \$ (144,784) | \$ (231,011) | \$ (8,262,529)                                     | \$ (25,284,733)                                       |
| 13-May-2022 | \$ (513,154) | \$ (40,699,767) | \$ (7,257,998)      | \$ (256,726) | \$ (297,689) | \$ (368,600) | \$ (24,109,202)                                    | \$ (49,393,935)                                       |

# EXHIBIT 14

**EminiFX, Inc.**  
**Total Stated Value of User Accounts versus the Marked to Market Values of EminiFX Holdings**  
**Exhibit 14**

| Week Ending | Marked to Market Account Values of EminiFX Holdings | Cumulative User "ROI" and Bonuses [1] | Cumulative User Net Activity [2] | Total Stated Value (Cumulative User ROI and Bonuses + Net Activity) | Shortfall of EminiFX Holdings v. User Account Values | Multiple of User Account Values over EminiFX Holdings |
|-------------|---|---------------------------------------|----------------------------------|---|--|---|
| 03-Sep-2021 | \$ 4,873  | \$ -                                  | \$ 2,675                         | \$ 2,675  | \$ 2,198   | N/A   |
| 10-Sep-2021 | \$ 9,343  | \$ -                                  | \$ 9,480                         | \$ 9,480  | \$ (137)   | N/A   |
| 17-Sep-2021 | \$ 10,665   | \$ -                                  | \$ 45,560                        | \$ 45,560   | \$ (34,895)  | N/A   |
| 24-Sep-2021 | \$ 5,787  | \$ -                                  | \$ 45,045                        | \$ 45,045   | \$ (39,257)  | N/A   |
| 01-Oct-2021 | \$ 3,395  | \$ -                                  | \$ 48,012                        | \$ 48,012   | \$ (44,617)  | N/A   |
| 08-Oct-2021 | \$ (765)  | \$ -                                  | \$ 47,904                        | \$ 47,904   | \$ (48,669)  | N/A   |
| 15-Oct-2021 | \$ 13,997   | \$ 563                                | \$ 64,630                        | \$ 65,193   | \$ (51,197)  | N/A   |
| 22-Oct-2021 | \$ 265,717  | \$ 95,400                             | \$ 334,187                       | \$ 429,587  | \$ (163,870)   | 1.6 x   |
| 29-Oct-2021 | \$ 620,801  | \$ 207,571                            | \$ 701,902                       | \$ 909,473  | \$ (288,673)   | 1.5 x   |
| 05-Nov-2021 | \$ 1,089,524  | \$ 349,064                            | \$ 1,197,679                     | \$ 1,546,742  | \$ (457,219)   | 1.4 x   |
| 12-Nov-2021 | \$ 1,606,315  | \$ 583,189                            | \$ 1,741,424                     | \$ 2,324,613  | \$ (718,298)   | 1.4 x   |
| 19-Nov-2021 | \$ 2,608,922  | \$ 881,211                            | \$ 2,816,660                     | \$ 3,697,871  | \$ (1,088,949)                                       | 1.4 x   |
| 26-Nov-2021 | \$ 3,875,403  | \$ 1,449,358                          | \$ 4,288,408                     | \$ 5,737,767  | \$ (1,862,363)                                       | 1.5 x   |
| 03-Dec-2021 | \$ 5,865,714  | \$ 2,125,427                          | \$ 6,313,119                     | \$ 8,438,546  | \$ (2,572,832)                                       | 1.4 x   |
| 10-Dec-2021 | \$ 7,955,281  | \$ 3,158,966                          | \$ 8,485,378                     | \$ 11,644,344   | \$ (3,689,063)                                       | 1.5 x   |
| 17-Dec-2021 | \$ 10,884,345                                       | \$ 4,616,488                          | \$ 11,504,285                    | \$ 16,120,773   | \$ (5,236,428)                                       | 1.5 x   |
| 24-Dec-2021 | \$ 13,939,769                                       | \$ 6,646,105                          | \$ 14,556,028                    | \$ 21,202,133   | \$ (7,262,363)                                       | 1.5 x   |
| 31-Dec-2021 | \$ 15,777,107                                       | \$ 9,413,577                          | \$ 16,983,441                    | \$ 26,397,018   | \$ (10,619,911)                                      | 1.7 x   |
| 07-Jan-2022 | \$ 17,639,347                                       | \$ 11,219,854                         | \$ 19,675,392                    | \$ 30,895,245   | \$ (13,255,898)                                      | 1.8 x   |
| 14-Jan-2022 | \$ 20,732,715                                       | \$ 13,197,917                         | \$ 23,248,181                    | \$ 36,446,097   | \$ (15,713,382)                                      | 1.8 x   |
| 21-Jan-2022 | \$ 23,305,987                                       | \$ 15,451,985                         | \$ 27,324,891                    | \$ 42,776,877   | \$ (19,470,890)                                      | 1.8 x   |
| 28-Jan-2022 | \$ 26,007,421                                       | \$ 19,573,727                         | \$ 32,947,830                    | \$ 52,521,557   | \$ (26,514,137)                                      | 2.0 x   |
| 04-Feb-2022 | \$ 30,992,512                                       | \$ 23,212,403                         | \$ 38,490,716                    | \$ 61,703,120   | \$ (30,710,607)                                      | 2.0 x   |
| 11-Feb-2022 | \$ 38,799,503                                       | \$ 30,780,386                         | \$ 46,294,993                    | \$ 77,075,379   | \$ (38,275,876)                                      | 2.0 x   |
| 18-Feb-2022 | \$ 47,443,786                                       | \$ 40,936,547                         | \$ 54,700,878                    | \$ 95,637,424   | \$ (48,193,639)                                      | 2.0 x   |
| 25-Feb-2022 | \$ 57,034,215                                       | \$ 53,306,262                         | \$ 64,902,136                    | \$ 118,208,397  | \$ (61,174,182)                                      | 2.1 x   |
| 04-Mar-2022 | \$ 69,415,912                                       | \$ 67,710,385                         | \$ 77,831,472                    | \$ 145,541,857  | \$ (76,125,944)                                      | 2.1 x   |
| 11-Mar-2022 | \$ 82,162,944                                       | \$ 85,801,597                         | \$ 92,043,790                    | \$ 177,845,387  | \$ (95,682,443)                                      | 2.2 x   |
| 18-Mar-2022 | \$ 95,188,744                                       | \$ 108,619,782                        | \$ 103,195,204                   | \$ 211,814,986  | \$ (116,626,242)                                     | 2.2 x   |
| 25-Mar-2022 | \$ 107,814,219                                      | \$ 136,436,929                        | \$ 114,443,632                   | \$ 250,880,561  | \$ (143,066,342)                                     | 2.3 x   |
| 01-Apr-2022 | \$ 126,051,386                                      | \$ 169,599,377                        | \$ 131,373,489                   | \$ 300,972,866  | \$ (174,921,480)                                     | 2.4 x   |
| 08-Apr-2022 | \$ 139,308,025                                      | \$ 209,027,612                        | \$ 151,776,399                   | \$ 360,804,011  | \$ (221,495,986)                                     | 2.6 x   |
| 15-Apr-2022 | \$ 154,047,140                                      | \$ 232,948,848                        | \$ 170,014,733                   | \$ 402,963,581  | \$ (248,916,442)                                     | 2.6 x   |
| 22-Apr-2022 | \$ 168,701,097                                      | \$ 258,990,915                        | \$ 187,357,520                   | \$ 446,348,435  | \$ (277,647,338)                                     | 2.6 x   |
| 29-Apr-2022 | \$ 177,269,213                                      | \$ 287,158,457                        | \$ 199,687,808                   | \$ 486,846,265  | \$ (309,577,052)                                     | 2.7 x   |
| 06-May-2022 | \$ 181,641,546                                      | \$ 318,469,287                        | \$ 212,766,340                   | \$ 531,235,626  | \$ (349,594,081)                                     | 2.9 x   |
| 13-May-2022 | \$ 173,156,806                                      | \$ 319,372,536                        | \$ 228,554,786                   | \$ 547,927,322  | \$ (374,770,516)                                     | 3.2 x   |

**Note:**

[1] = See Exhibit 10 for weekly activity.

[2] = See Exhibit 9 for weekly activity.

# EXHIBIT 15

# EMINIFX, INC.

## WEEKLY PERFORMANCE REPORTS

MAY 15, 2023

*Prepared by the Court-Appointed Receiver of EminiFX, Inc.*  
Case No. 22 Civ. 3822 (S.D.N.Y.)

Annexed to Receiver's Financial Condition Report [Dkt. 199]

EminiFX Weekly Performance Report  
October 16, 2021 - October 22, 2021

EminiFX Net Contributions

|   |           |                |
|---|-----------|----------------|
| Total Net Contribution as of: October 15, 2021: | A         | 64,630         |
| Weekly User Contributions:                      | B         | 276,128        |
| Weekly User Withdrawals:                        | C         | <b>(6,571)</b> |
| Weekly Net Contribution:                        | D = B + C | 269,557        |
| Total Net Contributions as of October 22, 2021: | E = A + D | 334,187        |

EminiFX Stated Numbers

|  |                   |         |
|--|-------------------|---------|
| Total Stated Account Value as of October 15, 2021: | F                 | 65,193  |
| Weekly Net Contribution:                           | G                 | 269,557 |
| Stated ROI Accrued:                                | H                 | 29,333  |
| Bonuses Accrued to Users:                          | I                 | 65,504  |
| Total Stated Account Value as of October 22, 2021: | J = F + G + H + I | 429,587 |

EminiFX Actual Numbers

|  |                       |                 |
|--|-----------------------|-----------------|
| Total MTM Value of EminiFX as of October 15, 2021: | K                     | 13,997          |
| Weekly Net Contribution:                           | L                     | 269,557         |
| Weekly Investment MTM Gain/(Loss): <sup>(1)</sup>  | M                     | <b>(2,188)</b>  |
| Weekly CoinPayments MTM Gain/(Loss):               | N                     | <b>(178)</b>    |
| Weekly Operational and Other Expenses:             | O                     | <b>(15,470)</b> |
| Total MTM Value of EminiFX as of October 22, 2021: | P = K + L + M + N + O | 265,717         |

EminiFX Valuations (Stated vs. Actual)

|  |           |                  |
|--|-----------|------------------|
| Total MTM Value Less Stated Account Value: | Q = P - J | <b>(163,870)</b> |
| Total MTM Value Less User Contributions:   | R = P - E | <b>(68,470)</b>  |

|                              |                  |
|------------------------------|------------------|
| Stated Weekly ROI:           | 5.01%            |
| Weekly Financial Performance | <b>(127.43%)</b> |

(1) Weekly Investment MTM Gain/(Loss) was calculated on balances provided. Amounts may include fees and other charges.



EminiFX Weekly Performance Report  
October 23, 2021 - October 29, 2021

EminiFX Net Contributions

|   |           |          |
|---|-----------|----------|
| Total Net Contribution as of: October 22, 2021: | A         | 334,187  |
| Weekly User Contributions:                      | B         | 380,652  |
| Weekly User Withdrawals:                        | C         | (12,936) |
| Weekly Net Contribution:                        | D = B + C | 367,716  |
| Total Net Contributions as of October 29, 2021: | E = A + D | 701,902  |

EminiFX Stated Numbers

|  |                   |         |
|--|-------------------|---------|
| Total Stated Account Value as of October 22, 2021: | F                 | 429,587 |
| Weekly Net Contribution:                           | G                 | 367,716 |
| Stated ROI Accrued:                                | H                 | 64,087  |
| Bonuses Accrued to Users:                          | I                 | 48,083  |
| Total Stated Account Value as of October 29, 2021: | J = F + G + H + I | 909,473 |

EminiFX Actual Numbers

|  |                       |         |
|--|-----------------------|---------|
| Total MTM Value of EminiFX as of October 22, 2021: | K                     | 265,717 |
| Weekly Net Contribution:                           | L                     | 367,716 |
| Weekly Investment MTM Gain/(Loss): <sup>(1)</sup>  | M                     | (3,033) |
| Weekly CoinPayments MTM Gain/(Loss):               | N                     | 192     |
| Weekly Operational and Other Expenses:             | O                     | (9,791) |
| Total MTM Value of EminiFX as of October 29, 2021: | P = K + L + M + N + O | 620,801 |

EminiFX Valuations (Stated vs. Actual)

|  |           |           |
|--|-----------|-----------|
| Total MTM Value Less Stated Account Value: | Q = P - J | (288,673) |
| Total MTM Value Less User Contributions:   | R = P - E | (81,102)  |

|                              |         |
|------------------------------|---------|
| Stated Weekly ROI:           | 5.01%   |
| Weekly Financial Performance | (4.75%) |

(1) Weekly Investment MTM Gain/(Loss) was calculated on balances provided. Amounts may include fees and other charges.

EminiFX Weekly Performance Report  
October 30, 2021 - November 05, 2021

EminiFX Net Contributions

|  |           |           |
|--|-----------|-----------|
| Total Net Contribution as of: October 29, 2021:  | A         | 701,902   |
| Weekly User Contributions:                       | B         | 501,668   |
| Weekly User Withdrawals:                         | C         | (5,892)   |
| Weekly Net Contribution:                         | D = B + C | 495,776   |
| Total Net Contributions as of November 05, 2021: | E = A + D | 1,197,679 |

EminiFX Stated Numbers

|   |                   |           |
|---|-------------------|-----------|
| Total Stated Account Value as of October 29, 2021:  | F                 | 909,473   |
| Weekly Net Contribution:                            | G                 | 495,776   |
| Stated ROI Accrued:                                 | H                 | 101,427   |
| Bonuses Accrued to Users:                           | I                 | 40,065    |
| Total Stated Account Value as of November 05, 2021: | J = F + G + H + I | 1,546,742 |

EminiFX Actual Numbers

|   |                       |           |
|---|-----------------------|-----------|
| Total MTM Value of EminiFX as of October 29, 2021:  | K                     | 620,801   |
| Weekly Net Contribution:                            | L                     | 495,776   |
| Weekly Investment MTM Gain/(Loss): <sup>(1)</sup>   | M                     | 13,025    |
| Weekly CoinPayments MTM Gain/(Loss):                | N                     | (212)     |
| Weekly Operational and Other Expenses:              | O                     | (39,867)  |
| Total MTM Value of EminiFX as of November 05, 2021: | P = K + L + M + N + O | 1,089,524 |

EminiFX Valuations (Stated vs. Actual)

|  |           |           |
|--|-----------|-----------|
| Total MTM Value Less Stated Account Value: | Q = P - J | (457,219) |
| Total MTM Value Less User Contributions:   | R = P - E | (108,155) |

|                              |         |
|------------------------------|---------|
| Stated Weekly ROI:           | 5.27%   |
| Weekly Financial Performance | (4.36%) |

(1) Weekly Investment MTM Gain/(Loss) was calculated on balances provided. Amounts may include fees and other charges.

EminiFX Weekly Performance Report  
November 06, 2021 - November 12, 2021

EminiFX Net Contributions

|  |           |                 |
|--|-----------|-----------------|
| Total Net Contribution as of: November 05, 2021: | A         | 1,197,679       |
| Weekly User Contributions:                       | B         | 570,977         |
| Weekly User Withdrawals:                         | C         | <b>(27,231)</b> |
| Weekly Net Contribution:                         | D = B + C | 543,746         |
| Total Net Contributions as of November 12, 2021: | E = A + D | 1,741,424       |

EminiFX Stated Numbers

|   |                   |           |
|---|-------------------|-----------|
| Total Stated Account Value as of November 05, 2021: | F                 | 1,546,742 |
| Weekly Net Contribution:                            | G                 | 543,746   |
| Stated ROI Accrued:                                 | H                 | 167,205   |
| Bonuses Accrued to Users:                           | I                 | 66,920    |
| Total Stated Account Value as of November 12, 2021: | J = F + G + H + I | 2,324,613 |

EminiFX Actual Numbers

|   |                       |                 |
|---|-----------------------|-----------------|
| Total MTM Value of EminiFX as of November 05, 2021: | K                     | 1,089,524       |
| Weekly Net Contribution:                            | L                     | 543,746         |
| Weekly Investment MTM Gain/(Loss): <sup>(1)</sup>   | M                     | <b>(223)</b>    |
| Weekly CoinPayments MTM Gain/(Loss):                | N                     | 1,234           |
| Weekly Operational and Other Expenses:              | O                     | <b>(27,966)</b> |
| Total MTM Value of EminiFX as of November 12, 2021: | P = K + L + M + N + O | 1,606,315       |

EminiFX Valuations (Stated vs. Actual)

|  |           |                  |
|--|-----------|------------------|
| Total MTM Value Less Stated Account Value: | Q = P - J | <b>(718,298)</b> |
| Total MTM Value Less User Contributions:   | R = P - E | <b>(135,110)</b> |

|                              |                |
|------------------------------|----------------|
| Stated Weekly ROI:           | 5.75%          |
| Weekly Financial Performance | <b>(2.47%)</b> |

(1) Weekly Investment MTM Gain/(Loss) was calculated on balances provided. Amounts may include fees and other charges.

EminiFX Weekly Performance Report  
November 13, 2021 - November 19, 2021

EminiFX Net Contributions

|  |           |                 |
|--|-----------|-----------------|
| Total Net Contribution as of: November 12, 2021: | A         | 1,741,424       |
| Weekly User Contributions:                       | B         | 1,107,209       |
| Weekly User Withdrawals:                         | C         | <b>(31,973)</b> |
| Weekly Net Contribution:                         | D = B + C | 1,075,235       |
| Total Net Contributions as of November 19, 2021: | E = A + D | 2,816,660       |

EminiFX Stated Numbers

|   |                   |           |
|---|-------------------|-----------|
| Total Stated Account Value as of November 12, 2021: | F                 | 2,324,613 |
| Weekly Net Contribution:                            | G                 | 1,075,235 |
| Stated ROI Accrued:                                 | H                 | 198,200   |
| Bonuses Accrued to Users:                           | I                 | 99,823    |
| Total Stated Account Value as of November 19, 2021: | J = F + G + H + I | 3,697,871 |

EminiFX Actual Numbers

|   |                       |                 |
|---|-----------------------|-----------------|
| Total MTM Value of EminiFX as of November 12, 2021: | K                     | 1,606,315       |
| Weekly Net Contribution:                            | L                     | 1,075,235       |
| Weekly Investment MTM Gain/(Loss): (1)              | M                     | <b>(11,603)</b> |
| Weekly CoinPayments MTM Gain/(Loss):                | N                     | <b>(7,064)</b>  |
| Weekly Operational and Other Expenses:              | O                     | <b>(53,961)</b> |
| Total MTM Value of EminiFX as of November 19, 2021: | P = K + L + M + N + O | 2,608,922       |

EminiFX Valuations (Stated vs. Actual)

|  |           |                    |
|--|-----------|--------------------|
| Total MTM Value Less Stated Account Value: | Q = P - J | <b>(1,088,949)</b> |
| Total MTM Value Less User Contributions:   | R = P - E | <b>(207,738)</b>   |

|                              |                |
|------------------------------|----------------|
| Stated Weekly ROI:           | 5.15%          |
| Weekly Financial Performance | <b>(4.52%)</b> |

(1) Weekly Investment MTM Gain/(Loss) was calculated on balances provided. Amounts may include fees and other charges.

EminiFX Weekly Performance Report  
November 20, 2021 - November 26, 2021

EminiFX Net Contributions

|  |           |                  |
|--|-----------|------------------|
| Total Net Contribution as of: November 19, 2021: | A         | 2,816,660        |
| Weekly User Contributions:                       | B         | 1,539,928        |
| Weekly User Withdrawals:                         | C         | <b>(68,179)</b>  |
| Weekly Net Contribution:                         | D = B + C | <b>1,471,748</b> |
| Total Net Contributions as of November 26, 2021: | E = A + D | <b>4,288,408</b> |

EminiFX Stated Numbers

|   |                   |                  |
|---|-------------------|------------------|
| Total Stated Account Value as of November 19, 2021: | F                 | 3,697,871        |
| Weekly Net Contribution:                            | G                 | 1,471,748        |
| Stated ROI Accrued:                                 | H                 | 412,245          |
| Bonuses Accrued to Users:                           | I                 | 155,902          |
| Total Stated Account Value as of November 26, 2021: | J = F + G + H + I | <b>5,737,767</b> |

EminiFX Actual Numbers

|   |                       |                  |
|---|-----------------------|------------------|
| Total MTM Value of EminiFX as of November 19, 2021: | K                     | 2,608,922        |
| Weekly Net Contribution:                            | L                     | 1,471,748        |
| Weekly Investment MTM Gain/(Loss): <sup>(1)</sup>   | M                     | <b>(3,532)</b>   |
| Weekly CoinPayments MTM Gain/(Loss):                | N                     | <b>(15,248)</b>  |
| Weekly Operational and Other Expenses:              | O                     | <b>(186,487)</b> |
| Total MTM Value of EminiFX as of November 26, 2021: | P = K + L + M + N + O | <b>3,875,403</b> |

EminiFX Valuations (Stated vs. Actual)

|  |           |                    |
|--|-----------|--------------------|
| Total MTM Value Less Stated Account Value: | Q = P - J | <b>(1,862,363)</b> |
| Total MTM Value Less User Contributions:   | R = P - E | <b>(413,005)</b>   |

|                              |                |
|------------------------------|----------------|
| Stated Weekly ROI:           | 6.85%          |
| Weekly Financial Performance | <b>(7.87%)</b> |

(1) Weekly Investment MTM Gain/(Loss) was calculated on balances provided. Amounts may include fees and other charges.

EminiFX Weekly Performance Report  
November 27, 2021 - December 03, 2021

EminiFX Net Contributions

|  |           |           |
|--|-----------|-----------|
| Total Net Contribution as of: November 26, 2021: | A         | 4,288,408 |
| Weekly User Contributions:                       | B         | 2,081,660 |
| Weekly User Withdrawals:                         | C         | (56,949)  |
| Weekly Net Contribution:                         | D = B + C | 2,024,711 |
| Total Net Contributions as of December 03, 2021: | E = A + D | 6,313,119 |

EminiFX Stated Numbers

|   |                   |           |
|---|-------------------|-----------|
| Total Stated Account Value as of November 26, 2021: | F                 | 5,737,767 |
| Weekly Net Contribution:                            | G                 | 2,024,711 |
| Stated ROI Accrued:                                 | H                 | 493,500   |
| Bonuses Accrued to Users:                           | I                 | 182,568   |
| Total Stated Account Value as of December 03, 2021: | J = F + G + H + I | 8,438,546 |

EminiFX Actual Numbers

|   |                       |           |
|---|-----------------------|-----------|
| Total MTM Value of EminiFX as of November 26, 2021: | K                     | 3,875,403 |
| Weekly Net Contribution:                            | L                     | 2,024,711 |
| Weekly Investment MTM Gain/(Loss): <sup>(1)</sup>   | M                     | (7,883)   |
| Weekly CoinPayments MTM Gain/(Loss):                | N                     | (10,951)  |
| Weekly Operational and Other Expenses:              | O                     | (15,566)  |
| Total MTM Value of EminiFX as of December 03, 2021: | P = K + L + M + N + O | 5,865,714 |

EminiFX Valuations (Stated vs. Actual)

|  |           |             |
|--|-----------|-------------|
| Total MTM Value Less Stated Account Value: | Q = P - J | (2,572,832) |
| Total MTM Value Less User Contributions:   | R = P - E | (447,405)   |

|                              |         |
|------------------------------|---------|
| Stated Weekly ROI:           | 7.75%   |
| Weekly Financial Performance | (0.89%) |

(1) Weekly Investment MTM Gain/(Loss) was calculated on balances provided. Amounts may include fees and other charges.

EminiFX Weekly Performance Report  
December 04, 2021 - December 10, 2021

EminiFX Net Contributions

|  |           |           |
|--|-----------|-----------|
| Total Net Contribution as of: December 03, 2021: | A         | 6,313,119 |
| Weekly User Contributions:                       | B         | 2,264,948 |
| Weekly User Withdrawals:                         | C         | (92,689)  |
| Weekly Net Contribution:                         | D = B + C | 2,172,259 |
| Total Net Contributions as of December 10, 2021: | E = A + D | 8,485,378 |

EminiFX Stated Numbers

|   |                   |            |
|---|-------------------|------------|
| Total Stated Account Value as of December 03, 2021: | F                 | 8,438,546  |
| Weekly Net Contribution:                            | G                 | 2,172,259  |
| Stated ROI Accrued:                                 | H                 | 795,348    |
| Bonuses Accrued to Users:                           | I                 | 238,191    |
| Total Stated Account Value as of December 10, 2021: | J = F + G + H + I | 11,644,344 |

EminiFX Actual Numbers

|   |                       |           |
|---|-----------------------|-----------|
| Total MTM Value of EminiFX as of December 03, 2021: | K                     | 5,865,714 |
| Weekly Net Contribution:                            | L                     | 2,172,259 |
| Weekly Investment MTM Gain/(Loss): <sup>(1)</sup>   | M                     | 1,414     |
| Weekly CoinPayments MTM Gain/(Loss):                | N                     | (63,365)  |
| Weekly Operational and Other Expenses:              | O                     | (20,741)  |
| Total MTM Value of EminiFX as of December 10, 2021: | P = K + L + M + N + O | 7,955,281 |

EminiFX Valuations (Stated vs. Actual)

|  |           |             |
|--|-----------|-------------|
| Total MTM Value Less Stated Account Value: | Q = P - J | (3,689,063) |
| Total MTM Value Less User Contributions:   | R = P - E | (530,097)   |

|                              |         |
|------------------------------|---------|
| Stated Weekly ROI:           | 7.77%   |
| Weekly Financial Performance | (1.41%) |

(1) Weekly Investment MTM Gain/(Loss) was calculated on balances provided. Amounts may include fees and other charges.

EminiFX Weekly Performance Report  
December 11, 2021 - December 17, 2021

EminiFX Net Contributions

|  |           |            |
|--|-----------|------------|
| Total Net Contribution as of: December 10, 2021: | A         | 8,485,378  |
| Weekly User Contributions:                       | B         | 3,149,135  |
| Weekly User Withdrawals:                         | C         | (130,228)  |
| Weekly Net Contribution:                         | D = B + C | 3,018,907  |
| Total Net Contributions as of December 17, 2021: | E = A + D | 11,504,285 |

EminiFX Stated Numbers

|   |                   |            |
|---|-------------------|------------|
| Total Stated Account Value as of December 10, 2021: | F                 | 11,644,344 |
| Weekly Net Contribution:                            | G                 | 3,018,907  |
| Stated ROI Accrued:                                 | H                 | 1,150,827  |
| Bonuses Accrued to Users:                           | I                 | 306,695    |
| Total Stated Account Value as of December 17, 2021: | J = F + G + H + I | 16,120,773 |

EminiFX Actual Numbers

|   |                       |            |
|---|-----------------------|------------|
| Total MTM Value of EminiFX as of December 10, 2021: | K                     | 7,955,281  |
| Weekly Net Contribution:                            | L                     | 3,018,907  |
| Weekly Investment MTM Gain/(Loss): (1)              | M                     | 9,076      |
| Weekly CoinPayments MTM Gain/(Loss):                | N                     | (28,901)   |
| Weekly Operational and Other Expenses:              | O                     | (70,017)   |
| Total MTM Value of EminiFX as of December 17, 2021: | P = K + L + M + N + O | 10,884,345 |

EminiFX Valuations (Stated vs. Actual)

|  |           |             |
|--|-----------|-------------|
| Total MTM Value Less Stated Account Value: | Q = P - J | (5,236,428) |
| Total MTM Value Less User Contributions:   | R = P - E | (619,940)   |

|                              |         |
|------------------------------|---------|
| Stated Weekly ROI:           | 8.75%   |
| Weekly Financial Performance | (1.13%) |

(1) Weekly Investment MTM Gain/(Loss) was calculated on balances provided. Amounts may include fees and other charges.



EminiFX Weekly Performance Report  
December 18, 2021 - December 24, 2021

EminiFX Net Contributions

|  |           |            |
|--|-----------|------------|
| Total Net Contribution as of: December 17, 2021: | A         | 11,504,285 |
| Weekly User Contributions:                       | B         | 3,232,526  |
| Weekly User Withdrawals:                         | C         | (180,783)  |
| Weekly Net Contribution:                         | D = B + C | 3,051,743  |
| Total Net Contributions as of December 24, 2021: | E = A + D | 14,556,028 |

EminiFX Stated Numbers

|   |                   |            |
|---|-------------------|------------|
| Total Stated Account Value as of December 17, 2021: | F                 | 16,120,773 |
| Weekly Net Contribution:                            | G                 | 3,051,743  |
| Stated ROI Accrued:                                 | H                 | 1,587,322  |
| Bonuses Accrued to Users:                           | I                 | 442,294    |
| Total Stated Account Value as of December 24, 2021: | J = F + G + H + I | 21,202,133 |

EminiFX Actual Numbers

|   |                       |            |
|---|-----------------------|------------|
| Total MTM Value of EminiFX as of December 17, 2021: | K                     | 10,884,345 |
| Weekly Net Contribution:                            | L                     | 3,051,743  |
| Weekly Investment MTM Gain/(Loss): (1)              | M                     | 1,550      |
| Weekly CoinPayments MTM Gain/(Loss):                | N                     | 121,384    |
| Weekly Operational and Other Expenses:              | O                     | (119,253)  |
| Total MTM Value of EminiFX as of December 24, 2021: | P = K + L + M + N + O | 13,939,769 |

EminiFX Valuations (Stated vs. Actual)

|  |           |             |
|--|-----------|-------------|
| Total MTM Value Less Stated Account Value: | Q = P - J | (7,262,363) |
| Total MTM Value Less User Contributions:   | R = P - E | (616,259)   |

|                              |       |
|------------------------------|-------|
| Stated Weekly ROI:           | 8.88% |
| Weekly Financial Performance | 0.03% |

(1) Weekly Investment MTM Gain/(Loss) was calculated on balances provided. Amounts may include fees and other charges.

EminiFX Weekly Performance Report  
December 25, 2021 - December 31, 2021

EminiFX Net Contributions

|  |           |                  |
|--|-----------|------------------|
| Total Net Contribution as of: December 24, 2021: | A         | 14,556,028       |
| Weekly User Contributions:                       | B         | 2,702,291        |
| Weekly User Withdrawals:                         | C         | <b>(274,878)</b> |
| Weekly Net Contribution:                         | D = B + C | 2,427,413        |
| Total Net Contributions as of December 31, 2021: | E = A + D | 16,983,441       |

EminiFX Stated Numbers

|   |                   |            |
|---|-------------------|------------|
| Total Stated Account Value as of December 24, 2021: | F                 | 21,202,133 |
| Weekly Net Contribution:                            | G                 | 2,427,413  |
| Stated ROI Accrued:                                 | H                 | 2,316,491  |
| Bonuses Accrued to Users:                           | I                 | 450,981    |
| Total Stated Account Value as of December 31, 2021: | J = F + G + H + I | 26,397,018 |

EminiFX Actual Numbers

|   |                       |                  |
|---|-----------------------|------------------|
| Total MTM Value of EminiFX as of December 24, 2021: | K                     | 13,939,769       |
| Weekly Net Contribution:                            | L                     | 2,427,413        |
| Weekly Investment MTM Gain/(Loss): <sup>(1)</sup>   | M                     | <b>(66,736)</b>  |
| Weekly CoinPayments MTM Gain/(Loss):                | N                     | <b>(172,391)</b> |
| Weekly Operational and Other Expenses:              | O                     | <b>(350,948)</b> |
| Total MTM Value of EminiFX as of December 31, 2021: | P = K + L + M + N + O | 15,777,107       |

EminiFX Valuations (Stated vs. Actual)

|  |           |                     |
|--|-----------|---------------------|
| Total MTM Value Less Stated Account Value: | Q = P - J | <b>(10,619,911)</b> |
| Total MTM Value Less User Contributions:   | R = P - E | <b>(1,206,334)</b>  |

|                              |                |
|------------------------------|----------------|
| Stated Weekly ROI:           | 9.97%          |
| Weekly Financial Performance | <b>(4.23%)</b> |

(1) Weekly Investment MTM Gain/(Loss) was calculated on balances provided. Amounts may include fees and other charges.

EminiFX Weekly Performance Report  
January 01, 2022 - January 07, 2022

EminiFX Net Contributions

|  |           |                  |
|--|-----------|------------------|
| Total Net Contribution as of: December 31, 2021: | A         | 16,983,441       |
| Weekly User Contributions:                       | B         | 2,924,085        |
| Weekly User Withdrawals:                         | C         | <b>(232,134)</b> |
| Weekly Net Contribution:                         | D = B + C | 2,691,951        |
| Total Net Contributions as of January 07, 2022:  | E = A + D | 19,675,392       |

EminiFX Stated Numbers

|   |                   |            |
|---|-------------------|------------|
| Total Stated Account Value as of December 31, 2021: | F                 | 26,397,018 |
| Weekly Net Contribution:                            | G                 | 2,691,951  |
| Stated ROI Accrued:                                 | H                 | 1,427,352  |
| Bonuses Accrued to Users:                           | I                 | 378,924    |
| Total Stated Account Value as of January 07, 2022:  | J = F + G + H + I | 30,895,245 |

EminiFX Actual Numbers

|   |                       |                  |
|---|-----------------------|------------------|
| Total MTM Value of EminiFX as of December 31, 2021: | K                     | 15,777,107       |
| Weekly Net Contribution:                            | L                     | 2,691,951        |
| Weekly Investment MTM Gain/(Loss): <sup>(1)</sup>   | M                     | <b>(459,663)</b> |
| Weekly CoinPayments MTM Gain/(Loss):                | N                     | <b>(213,091)</b> |
| Weekly Operational and Other Expenses:              | O                     | <b>(156,956)</b> |
| Total MTM Value of EminiFX as of January 07, 2022:  | P = K + L + M + N + O | 17,639,347       |

EminiFX Valuations (Stated vs. Actual)

|  |           |                     |
|--|-----------|---------------------|
| Total MTM Value Less Stated Account Value: | Q = P - J | <b>(13,255,898)</b> |
| Total MTM Value Less User Contributions:   | R = P - E | <b>(2,036,045)</b>  |

|                              |                |
|------------------------------|----------------|
| Stated Weekly ROI:           | 5.01%          |
| Weekly Financial Performance | <b>(5.26%)</b> |

(1) Weekly Investment MTM Gain/(Loss) was calculated on balances provided. Amounts may include fees and other charges.

EminiFX Weekly Performance Report  
January 08, 2022 - January 14, 2022

EminiFX Net Contributions

|   |           |                  |
|---|-----------|------------------|
| Total Net Contribution as of: January 07, 2022: | A         | 19,675,392       |
| Weekly User Contributions:                      | B         | 3,863,862        |
| Weekly User Withdrawals:                        | C         | <b>(291,073)</b> |
| Weekly Net Contribution:                        | D = B + C | 3,572,789        |
| Total Net Contributions as of January 14, 2022: | E = A + D | 23,248,181       |

EminiFX Stated Numbers

|  |                   |            |
|--|-------------------|------------|
| Total Stated Account Value as of January 07, 2022: | F                 | 30,895,245 |
| Weekly Net Contribution:                           | G                 | 3,572,789  |
| Stated ROI Accrued:                                | H                 | 1,699,283  |
| Bonuses Accrued to Users:                          | I                 | 278,780    |
| Total Stated Account Value as of January 14, 2022: | J = F + G + H + I | 36,446,097 |

EminiFX Actual Numbers

|  |                       |                  |
|--|-----------------------|------------------|
| Total MTM Value of EminiFX as of January 07, 2022: | K                     | 17,639,347       |
| Weekly Net Contribution:                           | L                     | 3,572,789        |
| Weekly Investment MTM Gain/(Loss): <sup>(1)</sup>  | M                     | <b>(489,469)</b> |
| Weekly CoinPayments MTM Gain/(Loss):               | N                     | 71,559           |
| Weekly Operational and Other Expenses:             | O                     | <b>(61,511)</b>  |
| Total MTM Value of EminiFX as of January 14, 2022: | P = K + L + M + N + O | 20,732,715       |

EminiFX Valuations (Stated vs. Actual)

|  |           |                     |
|--|-----------|---------------------|
| Total MTM Value Less Stated Account Value: | Q = P - J | <b>(15,713,382)</b> |
| Total MTM Value Less User Contributions:   | R = P - E | <b>(2,515,465)</b>  |

|                              |                |
|------------------------------|----------------|
| Stated Weekly ROI:           | 5.15%          |
| Weekly Financial Performance | <b>(2.72%)</b> |

(1) Weekly Investment MTM Gain/(Loss) was calculated on balances provided. Amounts may include fees and other charges.

EminiFX Weekly Performance Report  
January 15, 2022 - January 21, 2022

EminiFX Net Contributions

|   |           |                  |
|---|-----------|------------------|
| Total Net Contribution as of: January 14, 2022: | A         | 23,248,181       |
| Weekly User Contributions:                      | B         | 4,294,829        |
| Weekly User Withdrawals:                        | C         | <b>(218,118)</b> |
| Weekly Net Contribution:                        | D = B + C | 4,076,711        |
| Total Net Contributions as of January 21, 2022: | E = A + D | 27,324,891       |

EminiFX Stated Numbers

|  |                   |            |
|--|-------------------|------------|
| Total Stated Account Value as of January 14, 2022: | F                 | 36,446,097 |
| Weekly Net Contribution:                           | G                 | 4,076,711  |
| Stated ROI Accrued:                                | H                 | 1,927,016  |
| Bonuses Accrued to Users:                          | I                 | 327,052    |
| Total Stated Account Value as of January 21, 2022: | J = F + G + H + I | 42,776,877 |

EminiFX Actual Numbers

|  |                       |                    |
|--|-----------------------|--------------------|
| Total MTM Value of EminiFX as of January 14, 2022: | K                     | 20,732,715         |
| Weekly Net Contribution:                           | L                     | 4,076,711          |
| Weekly Investment MTM Gain/(Loss): <sup>(1)</sup>  | M                     | <b>(1,006,516)</b> |
| Weekly CoinPayments MTM Gain/(Loss):               | N                     | <b>(395,514)</b>   |
| Weekly Operational and Other Expenses:             | O                     | <b>(101,410)</b>   |
| Total MTM Value of EminiFX as of January 21, 2022: | P = K + L + M + N + O | 23,305,987         |

EminiFX Valuations (Stated vs. Actual)

|  |           |                     |
|--|-----------|---------------------|
| Total MTM Value Less Stated Account Value: | Q = P - J | <b>(19,470,890)</b> |
| Total MTM Value Less User Contributions:   | R = P - E | <b>(4,018,905)</b>  |

|                              |                |
|------------------------------|----------------|
| Stated Weekly ROI:           | 5.03%          |
| Weekly Financial Performance | <b>(7.25%)</b> |

(1) Weekly Investment MTM Gain/(Loss) was calculated on balances provided. Amounts may include fees and other charges.

EminiFX Weekly Performance Report  
January 22, 2022 - January 28, 2022

EminiFX Net Contributions

|   |           |                  |
|---|-----------|------------------|
| Total Net Contribution as of: January 21, 2022: | A         | 27,324,891       |
| Weekly User Contributions:                      | B         | 5,971,551        |
| Weekly User Withdrawals:                        | C         | <b>(348,612)</b> |
| Weekly Net Contribution:                        | D = B + C | 5,622,939        |
| Total Net Contributions as of January 28, 2022: | E = A + D | 32,947,830       |

EminiFX Stated Numbers

|  |                   |            |
|--|-------------------|------------|
| Total Stated Account Value as of January 21, 2022: | F                 | 42,776,877 |
| Weekly Net Contribution:                           | G                 | 5,622,939  |
| Stated ROI Accrued:                                | H                 | 3,008,715  |
| Bonuses Accrued to Users:                          | I                 | 1,113,027  |
| Total Stated Account Value as of January 28, 2022: | J = F + G + H + I | 52,521,557 |

EminiFX Actual Numbers

|  |                       |                    |
|--|-----------------------|--------------------|
| Total MTM Value of EminiFX as of January 21, 2022: | K                     | 23,305,987         |
| Weekly Net Contribution:                           | L                     | 5,622,939          |
| Weekly Investment MTM Gain/(Loss): <sup>(1)</sup>  | M                     | <b>(2,881,239)</b> |
| Weekly CoinPayments MTM Gain/(Loss):               | N                     | 96,035             |
| Weekly Operational and Other Expenses:             | O                     | <b>(136,301)</b>   |
| Total MTM Value of EminiFX as of January 28, 2022: | P = K + L + M + N + O | 26,007,421         |

EminiFX Valuations (Stated vs. Actual)

|  |           |                     |
|--|-----------|---------------------|
| Total MTM Value Less Stated Account Value: | Q = P - J | <b>(26,514,137)</b> |
| Total MTM Value Less User Contributions:   | R = P - E | <b>(6,940,410)</b>  |

|                              |                 |
|------------------------------|-----------------|
| Stated Weekly ROI:           | 6.73%           |
| Weekly Financial Performance | <b>(12.54%)</b> |

(1) Weekly Investment MTM Gain/(Loss) was calculated on balances provided. Amounts may include fees and other charges.

EminiFX Weekly Performance Report  
January 29, 2022 - February 04, 2022

EminiFX Net Contributions

|  |           |                  |
|--|-----------|------------------|
| Total Net Contribution as of: January 28, 2022:  | A         | 32,947,830       |
| Weekly User Contributions:                       | B         | 5,942,568        |
| Weekly User Withdrawals:                         | C         | <b>(399,682)</b> |
| Weekly Net Contribution:                         | D = B + C | 5,542,886        |
| Total Net Contributions as of February 04, 2022: | E = A + D | 38,490,716       |

EminiFX Stated Numbers

|   |                   |            |
|---|-------------------|------------|
| Total Stated Account Value as of January 28, 2022:  | F                 | 52,521,557 |
| Weekly Net Contribution:                            | G                 | 5,542,886  |
| Stated ROI Accrued:                                 | H                 | 2,840,196  |
| Bonuses Accrued to Users:                           | I                 | 798,481    |
| Total Stated Account Value as of February 04, 2022: | J = F + G + H + I | 61,703,120 |

EminiFX Actual Numbers

|   |                       |                  |
|---|-----------------------|------------------|
| Total MTM Value of EminiFX as of January 28, 2022:  | K                     | 26,007,421       |
| Weekly Net Contribution:                            | L                     | 5,542,886        |
| Weekly Investment MTM Gain/(Loss): <sup>(1)</sup>   | M                     | <b>(725,719)</b> |
| Weekly CoinPayments MTM Gain/(Loss):                | N                     | 332,951          |
| Weekly Operational and Other Expenses:              | O                     | <b>(165,026)</b> |
| Total MTM Value of EminiFX as of February 04, 2022: | P = K + L + M + N + O | 30,992,512       |

EminiFX Valuations (Stated vs. Actual)

|  |           |                     |
|--|-----------|---------------------|
| Total MTM Value Less Stated Account Value: | Q = P - J | <b>(30,710,607)</b> |
| Total MTM Value Less User Contributions:   | R = P - E | <b>(7,498,204)</b>  |

|                              |                |
|------------------------------|----------------|
| Stated Weekly ROI:           | 5.35%          |
| Weekly Financial Performance | <b>(2.14%)</b> |

(1) Weekly Investment MTM Gain/(Loss) was calculated on balances provided. Amounts may include fees and other charges.

EminiFX Weekly Performance Report  
February 05, 2022 - February 11, 2022

EminiFX Net Contributions

|  |           |            |
|--|-----------|------------|
| Total Net Contribution as of: February 04, 2022: | A         | 38,490,716 |
| Weekly User Contributions:                       | B         | 8,451,525  |
| Weekly User Withdrawals:                         | C         | (647,249)  |
| Weekly Net Contribution:                         | D = B + C | 7,804,277  |
| Total Net Contributions as of February 11, 2022: | E = A + D | 46,294,993 |

EminiFX Stated Numbers

|   |                   |            |
|---|-------------------|------------|
| Total Stated Account Value as of February 04, 2022: | F                 | 61,703,120 |
| Weekly Net Contribution:                            | G                 | 7,804,277  |
| Stated ROI Accrued:                                 | H                 | 6,286,342  |
| Bonuses Accrued to Users:                           | I                 | 1,281,640  |
| Total Stated Account Value as of February 11, 2022: | J = F + G + H + I | 77,075,379 |

EminiFX Actual Numbers

|   |                       |            |
|---|-----------------------|------------|
| Total MTM Value of EminiFX as of February 04, 2022: | K                     | 30,992,512 |
| Weekly Net Contribution:                            | L                     | 7,804,277  |
| Weekly Investment MTM Gain/(Loss): (1)              | M                     | 49,471     |
| Weekly CoinPayments MTM Gain/(Loss):                | N                     | 46,283     |
| Weekly Operational and Other Expenses:              | O                     | (93,040)   |
| Total MTM Value of EminiFX as of February 11, 2022: | P = K + L + M + N + O | 38,799,503 |

EminiFX Valuations (Stated vs. Actual)

|  |           |              |
|--|-----------|--------------|
| Total MTM Value Less Stated Account Value: | Q = P - J | (38,275,876) |
| Total MTM Value Less User Contributions:   | R = P - E | (7,495,490)  |

|                              |       |
|------------------------------|-------|
| Stated Weekly ROI:           | 9.86% |
| Weekly Financial Performance | 0.01% |

(1) Weekly Investment MTM Gain/(Loss) was calculated on balances provided. Amounts may include fees and other charges.



EminiFX Weekly Performance Report  
February 12, 2022 - February 18, 2022

EminiFX Net Contributions

|  |           |            |
|--|-----------|------------|
| Total Net Contribution as of: February 11, 2022: | A         | 46,294,993 |
| Weekly User Contributions:                       | B         | 9,154,295  |
| Weekly User Withdrawals:                         | C         | (748,410)  |
| Weekly Net Contribution:                         | D = B + C | 8,405,885  |
| Total Net Contributions as of February 18, 2022: | E = A + D | 54,700,878 |

EminiFX Stated Numbers

|   |                   |            |
|---|-------------------|------------|
| Total Stated Account Value as of February 11, 2022: | F                 | 77,075,379 |
| Weekly Net Contribution:                            | G                 | 8,405,885  |
| Stated ROI Accrued:                                 | H                 | 8,137,072  |
| Bonuses Accrued to Users:                           | I                 | 2,019,088  |
| Total Stated Account Value as of February 18, 2022: | J = F + G + H + I | 95,637,424 |

EminiFX Actual Numbers

|   |                       |            |
|---|-----------------------|------------|
| Total MTM Value of EminiFX as of February 11, 2022: | K                     | 38,799,503 |
| Weekly Net Contribution:                            | L                     | 8,405,885  |
| Weekly Investment MTM Gain/(Loss): (1)              | M                     | 916,822    |
| Weekly CoinPayments MTM Gain/(Loss):                | N                     | (367,743)  |
| Weekly Operational and Other Expenses:              | O                     | (310,681)  |
| Total MTM Value of EminiFX as of February 18, 2022: | P = K + L + M + N + O | 47,443,786 |

EminiFX Valuations (Stated vs. Actual)

|  |           |              |
|--|-----------|--------------|
| Total MTM Value Less Stated Account Value: | Q = P - J | (48,193,639) |
| Total MTM Value Less User Contributions:   | R = P - E | (7,257,092)  |

|                              |       |
|------------------------------|-------|
| Stated Weekly ROI:           | 9.83% |
| Weekly Financial Performance | 0.61% |

(1) Weekly Investment MTM Gain/(Loss) was calculated on balances provided. Amounts may include fees and other charges.

EminiFX Weekly Performance Report  
February 19, 2022 - February 25, 2022

EminiFX Net Contributions

|  |           |  |
|--|-----------|--|
| Total Net Contribution as of: February 18, 2022: | A         | 54,700,878                                   |
| Weekly User Contributions:                       | B         | 11,221,183                                   |
| Weekly User Withdrawals:                         | C         | <span style="color: red;">(1,019,925)</span> |
| Weekly Net Contribution:                         | D = B + C | 10,201,258                                   |
| Total Net Contributions as of February 25, 2022: | E = A + D | 64,902,136                                   |

EminiFX Stated Numbers

|   |                   |             |
|---|-------------------|-------------|
| Total Stated Account Value as of February 18, 2022: | F                 | 95,637,424  |
| Weekly Net Contribution:                            | G                 | 10,201,258  |
| Stated ROI Accrued:                                 | H                 | 10,127,441  |
| Bonuses Accrued to Users:                           | I                 | 2,242,275   |
| Total Stated Account Value as of February 25, 2022: | J = F + G + H + I | 118,208,397 |

EminiFX Actual Numbers

|   |                       |  |
|---|-----------------------|--|
| Total MTM Value of EminiFX as of February 18, 2022: | K                     | 47,443,786                                 |
| Weekly Net Contribution:                            | L                     | 10,201,258                                 |
| Weekly Investment MTM Gain/(Loss): <sup>(1)</sup>   | M                     | <span style="color: red;">(43,565)</span>  |
| Weekly CoinPayments MTM Gain/(Loss):                | N                     | <span style="color: red;">(25,075)</span>  |
| Weekly Operational and Other Expenses:              | O                     | <span style="color: red;">(542,188)</span> |
| Total MTM Value of EminiFX as of February 25, 2022: | P = K + L + M + N + O | 57,034,215                                 |

EminiFX Valuations (Stated vs. Actual)

|  |           |   |
|--|-----------|---|
| Total MTM Value Less Stated Account Value: | Q = P - J | <span style="color: red;">(61,174,182)</span> |
| Total MTM Value Less User Contributions:   | R = P - E | <span style="color: red;">(7,867,920)</span>  |

|                              |  |
|------------------------------|--|
| Stated Weekly ROI:           | 9.94%                                    |
| Weekly Financial Performance | <span style="color: red;">(1.29%)</span> |

(1) Weekly Investment MTM Gain/(Loss) was calculated on balances provided. Amounts may include fees and other charges.

EminiFX Weekly Performance Report  
February 26, 2022 - March 04, 2022

EminiFX Net Contributions

|  |           |            |
|--|-----------|------------|
| Total Net Contribution as of: February 25, 2022: | A         | 64,902,136 |
| Weekly User Contributions:                       | B         | 13,852,900 |
| Weekly User Withdrawals:                         | C         | (923,563)  |
| Weekly Net Contribution:                         | D = B + C | 12,929,336 |
| Total Net Contributions as of March 04, 2022:    | E = A + D | 77,831,472 |

EminiFX Stated Numbers

|   |                   |             |
|---|-------------------|-------------|
| Total Stated Account Value as of February 25, 2022: | F                 | 118,208,397 |
| Weekly Net Contribution:                            | G                 | 12,929,336  |
| Stated ROI Accrued:                                 | H                 | 11,745,125  |
| Bonuses Accrued to Users:                           | I                 | 2,658,998   |
| Total Stated Account Value as of March 04, 2022:    | J = F + G + H + I | 145,541,857 |

EminiFX Actual Numbers

|   |                       |            |
|---|-----------------------|------------|
| Total MTM Value of EminiFX as of February 25, 2022: | K                     | 57,034,215 |
| Weekly Net Contribution:                            | L                     | 12,929,336 |
| Weekly Investment MTM Gain/(Loss): <sup>(1)</sup>   | M                     | 30,246     |
| Weekly CoinPayments MTM Gain/(Loss):                | N                     | (452,076)  |
| Weekly Operational and Other Expenses:              | O                     | (125,809)  |
| Total MTM Value of EminiFX as of March 04, 2022:    | P = K + L + M + N + O | 69,415,912 |

EminiFX Valuations (Stated vs. Actual)

|  |           |              |
|--|-----------|--------------|
| Total MTM Value Less Stated Account Value: | Q = P - J | (76,125,944) |
| Total MTM Value Less User Contributions:   | R = P - E | (8,415,560)  |

|                              |         |
|------------------------------|---------|
| Stated Weekly ROI:           | 9.27%   |
| Weekly Financial Performance | (0.96%) |

(1) Weekly Investment MTM Gain/(Loss) was calculated on balances provided. Amounts may include fees and other charges.

EminiFX Weekly Performance Report  
March 05, 2022 - March 11, 2022

EminiFX Net Contributions

|   |           |                    |
|---|-----------|--------------------|
| Total Net Contribution as of: March 04, 2022: | A         | 77,831,472         |
| Weekly User Contributions:                    | B         | 15,642,899         |
| Weekly User Withdrawals:                      | C         | <b>(1,430,582)</b> |
| Weekly Net Contribution:                      | D = B + C | 14,212,318         |
| Total Net Contributions as of March 11, 2022: | E = A + D | 92,043,790         |

EminiFX Stated Numbers

|  |                   |             |
|--|-------------------|-------------|
| Total Stated Account Value as of March 04, 2022: | F                 | 145,541,857 |
| Weekly Net Contribution:                         | G                 | 14,212,318  |
| Stated ROI Accrued:                              | H                 | 15,017,929  |
| Bonuses Accrued to Users:                        | I                 | 3,073,283   |
| Total Stated Account Value as of March 11, 2022: | J = F + G + H + I | 177,845,387 |

EminiFX Actual Numbers

|   |                       |                  |
|---|-----------------------|------------------|
| Total MTM Value of EminiFX as of March 04, 2022:  | K                     | 69,415,912       |
| Weekly Net Contribution:                          | L                     | 14,212,318       |
| Weekly Investment MTM Gain/(Loss): <sup>(1)</sup> | M                     | <b>(779,969)</b> |
| Weekly CoinPayments MTM Gain/(Loss):              | N                     | <b>(251,409)</b> |
| Weekly Operational and Other Expenses:            | O                     | <b>(433,907)</b> |
| Total MTM Value of EminiFX as of March 11, 2022:  | P = K + L + M + N + O | 82,162,944       |

EminiFX Valuations (Stated vs. Actual)

|  |           |                     |
|--|-----------|---------------------|
| Total MTM Value Less Stated Account Value: | Q = P - J | <b>(95,682,443)</b> |
| Total MTM Value Less User Contributions:   | R = P - E | <b>(9,880,846)</b>  |

|                              |                |
|------------------------------|----------------|
| Stated Weekly ROI:           | 9.99%          |
| Weekly Financial Performance | <b>(2.11%)</b> |

(1) Weekly Investment MTM Gain/(Loss) was calculated on balances provided. Amounts may include fees and other charges.

EminiFX Weekly Performance Report  
March 12, 2022 - March 18, 2022

EminiFX Net Contributions

|   |           |                    |
|---|-----------|--------------------|
| Total Net Contribution as of: March 11, 2022: | A         | 92,043,790         |
| Weekly User Contributions:                    | B         | 12,832,884         |
| Weekly User Withdrawals:                      | C         | <b>(1,681,470)</b> |
| Weekly Net Contribution:                      | D = B + C | 11,151,414         |
| Total Net Contributions as of March 18, 2022: | E = A + D | 103,195,204        |

EminiFX Stated Numbers

|  |                   |             |
|--|-------------------|-------------|
| Total Stated Account Value as of March 11, 2022: | F                 | 177,845,387 |
| Weekly Net Contribution:                         | G                 | 11,151,414  |
| Stated ROI Accrued:                              | H                 | 18,866,397  |
| Bonuses Accrued to Users:                        | I                 | 3,951,788   |
| Total Stated Account Value as of March 18, 2022: | J = F + G + H + I | 211,814,986 |

EminiFX Actual Numbers

|   |                       |                  |
|---|-----------------------|------------------|
| Total MTM Value of EminiFX as of March 11, 2022:  | K                     | 82,162,944       |
| Weekly Net Contribution:                          | L                     | 11,151,414       |
| Weekly Investment MTM Gain/(Loss): <sup>(1)</sup> | M                     | 488,041          |
| Weekly CoinPayments MTM Gain/(Loss):              | N                     | 1,745,502        |
| Weekly Operational and Other Expenses:            | O                     | <b>(359,157)</b> |
| Total MTM Value of EminiFX as of March 18, 2022:  | P = K + L + M + N + O | 95,188,744       |

EminiFX Valuations (Stated vs. Actual)

|  |           |                      |
|--|-----------|----------------------|
| Total MTM Value Less Stated Account Value: | Q = P - J | <b>(116,626,242)</b> |
| Total MTM Value Less User Contributions:   | R = P - E | <b>(8,006,460)</b>   |

|                              |       |
|------------------------------|-------|
| Stated Weekly ROI:           | 9.98% |
| Weekly Financial Performance | 2.28% |

(1) Weekly Investment MTM Gain/(Loss) was calculated on balances provided. Amounts may include fees and other charges.

EminiFX Weekly Performance Report  
March 19, 2022 - March 25, 2022

EminiFX Net Contributions

|   |           |             |
|---|-----------|-------------|
| Total Net Contribution as of: March 18, 2022: | A         | 103,195,204 |
| Weekly User Contributions:                    | B         | 13,634,187  |
| Weekly User Withdrawals:                      | C         | (2,385,759) |
| Weekly Net Contribution:                      | D = B + C | 11,248,428  |
| Total Net Contributions as of March 25, 2022: | E = A + D | 114,443,632 |

EminiFX Stated Numbers

|  |                   |             |
|--|-------------------|-------------|
| Total Stated Account Value as of March 18, 2022: | F                 | 211,814,986 |
| Weekly Net Contribution:                         | G                 | 11,248,428  |
| Stated ROI Accrued:                              | H                 | 22,453,933  |
| Bonuses Accrued to Users:                        | I                 | 5,363,214   |
| Total Stated Account Value as of March 25, 2022: | J = F + G + H + I | 250,880,561 |

EminiFX Actual Numbers

|   |                       |             |
|---|-----------------------|-------------|
| Total MTM Value of EminiFX as of March 18, 2022:  | K                     | 95,188,744  |
| Weekly Net Contribution:                          | L                     | 11,248,428  |
| Weekly Investment MTM Gain/(Loss): <sup>(1)</sup> | M                     | (643,993)   |
| Weekly CoinPayments MTM Gain/(Loss):              | N                     | 2,110,749   |
| Weekly Operational and Other Expenses:            | O                     | (89,710)    |
| Total MTM Value of EminiFX as of March 25, 2022:  | P = K + L + M + N + O | 107,814,219 |

EminiFX Valuations (Stated vs. Actual)

|  |           |               |
|--|-----------|---------------|
| Total MTM Value Less Stated Account Value: | Q = P - J | (143,066,342) |
| Total MTM Value Less User Contributions:   | R = P - E | (6,629,414)   |

|                              |       |
|------------------------------|-------|
| Stated Weekly ROI:           | 9.94% |
| Weekly Financial Performance | 1.45% |

(1) Weekly Investment MTM Gain/(Loss) was calculated on balances provided. Amounts may include fees and other charges.

EminiFX Weekly Performance Report  
March 26, 2022 - April 01, 2022

EminiFX Net Contributions

|   |           |  |
|---|-----------|--|
| Total Net Contribution as of: March 25, 2022: | A         | 114,443,632                                  |
| Weekly User Contributions:                    | B         | 19,904,429                                   |
| Weekly User Withdrawals:                      | C         | <span style="color: red;">(2,974,572)</span> |
| Weekly Net Contribution:                      | D = B + C | 16,929,857                                   |
| Total Net Contributions as of April 01, 2022: | E = A + D | 131,373,489                                  |

EminiFX Stated Numbers

|  |                   |             |
|--|-------------------|-------------|
| Total Stated Account Value as of March 25, 2022: | F                 | 250,880,561 |
| Weekly Net Contribution:                         | G                 | 16,929,857  |
| Stated ROI Accrued:                              | H                 | 27,094,011  |
| Bonuses Accrued to Users:                        | I                 | 6,068,438   |
| Total Stated Account Value as of April 01, 2022: | J = F + G + H + I | 300,972,866 |

EminiFX Actual Numbers

|   |                       |  |
|---|-----------------------|--|
| Total MTM Value of EminiFX as of March 25, 2022:  | K                     | 107,814,219                                |
| Weekly Net Contribution:                          | L                     | 16,929,857                                 |
| Weekly Investment MTM Gain/(Loss): <sup>(1)</sup> | M                     | 128,723                                    |
| Weekly CoinPayments MTM Gain/(Loss):              | N                     | 1,676,202                                  |
| Weekly Operational and Other Expenses:            | O                     | <span style="color: red;">(497,614)</span> |
| Total MTM Value of EminiFX as of April 01, 2022:  | P = K + L + M + N + O | 126,051,386                                |

EminiFX Valuations (Stated vs. Actual)

|  |           |  |
|--|-----------|--|
| Total MTM Value Less Stated Account Value: | Q = P - J | <span style="color: red;">(174,921,480)</span> |
| Total MTM Value Less User Contributions:   | R = P - E | <span style="color: red;">(5,322,103)</span>   |

|                              |       |
|------------------------------|-------|
| Stated Weekly ROI:           | 9.91% |
| Weekly Financial Performance | 1.21% |

(1) Weekly Investment MTM Gain/(Loss) was calculated on balances provided. Amounts may include fees and other charges.

EminiFX Weekly Performance Report  
April 02, 2022 - April 08, 2022

EminiFX Net Contributions

|   |           |             |
|---|-----------|-------------|
| Total Net Contribution as of: April 01, 2022: | A         | 131,373,489 |
| Weekly User Contributions:                    | B         | 26,831,012  |
| Weekly User Withdrawals:                      | C         | (6,428,102) |
| Weekly Net Contribution:                      | D = B + C | 20,402,910  |
| Total Net Contributions as of April 08, 2022: | E = A + D | 151,776,399 |

EminiFX Stated Numbers

|  |                   |             |
|--|-------------------|-------------|
| Total Stated Account Value as of April 01, 2022: | F                 | 300,972,866 |
| Weekly Net Contribution:                         | G                 | 20,402,910  |
| Stated ROI Accrued:                              | H                 | 32,994,299  |
| Bonuses Accrued to Users:                        | I                 | 6,433,936   |
| Total Stated Account Value as of April 08, 2022: | J = F + G + H + I | 360,804,011 |

EminiFX Actual Numbers

|   |                       |             |
|---|-----------------------|-------------|
| Total MTM Value of EminiFX as of April 01, 2022:  | K                     | 126,051,386 |
| Weekly Net Contribution:                          | L                     | 20,402,910  |
| Weekly Investment MTM Gain/(Loss): <sup>(1)</sup> | M                     | (597,324)   |
| Weekly CoinPayments MTM Gain/(Loss):              | N                     | (6,140,487) |
| Weekly Operational and Other Expenses:            | O                     | (408,461)   |
| Total MTM Value of EminiFX as of April 08, 2022:  | P = K + L + M + N + O | 139,308,025 |

EminiFX Valuations (Stated vs. Actual)

|  |           |               |
|--|-----------|---------------|
| Total MTM Value Less Stated Account Value: | Q = P - J | (221,495,986) |
| Total MTM Value Less User Contributions:   | R = P - E | (12,468,374)  |

|                              |         |
|------------------------------|---------|
| Stated Weekly ROI:           | 9.97%   |
| Weekly Financial Performance | (5.67%) |

(1) Weekly Investment MTM Gain/(Loss) was calculated on balances provided. Amounts may include fees and other charges.



EminiFX Weekly Performance Report  
April 09, 2022 - April 15, 2022

EminiFX Net Contributions

|   |           |             |
|---|-----------|-------------|
| Total Net Contribution as of: April 08, 2022: | A         | 151,776,399 |
| Weekly User Contributions:                    | B         | 24,655,287  |
| Weekly User Withdrawals:                      | C         | (6,416,952) |
| Weekly Net Contribution:                      | D = B + C | 18,238,335  |
| Total Net Contributions as of April 15, 2022: | E = A + D | 170,014,733 |

EminiFX Stated Numbers

|  |                   |             |
|--|-------------------|-------------|
| Total Stated Account Value as of April 08, 2022: | F                 | 360,804,011 |
| Weekly Net Contribution:                         | G                 | 18,238,335  |
| Stated ROI Accrued:                              | H                 | 19,613,492  |
| Bonuses Accrued to Users:                        | I                 | 4,307,744   |
| Total Stated Account Value as of April 15, 2022: | J = F + G + H + I | 402,963,581 |

EminiFX Actual Numbers

|   |                       |             |
|---|-----------------------|-------------|
| Total MTM Value of EminiFX as of April 08, 2022:  | K                     | 139,308,025 |
| Weekly Net Contribution:                          | L                     | 18,238,335  |
| Weekly Investment MTM Gain/(Loss): <sup>(1)</sup> | M                     | (332,469)   |
| Weekly CoinPayments MTM Gain/(Loss):              | N                     | (2,917,821) |
| Weekly Operational and Other Expenses:            | O                     | (248,929)   |
| Total MTM Value of EminiFX as of April 15, 2022:  | P = K + L + M + N + O | 154,047,140 |

EminiFX Valuations (Stated vs. Actual)

|  |           |               |
|--|-----------|---------------|
| Total MTM Value Less Stated Account Value: | Q = P - J | (248,916,442) |
| Total MTM Value Less User Contributions:   | R = P - E | (15,967,594)  |

|                              |         |
|------------------------------|---------|
| Stated Weekly ROI:           | 5.00%   |
| Weekly Financial Performance | (2.51%) |

(1) Weekly Investment MTM Gain/(Loss) was calculated on balances provided. Amounts may include fees and other charges.

EminiFX Weekly Performance Report  
April 16, 2022 - April 22, 2022

EminiFX Net Contributions

|   |           |             |
|---|-----------|-------------|
| Total Net Contribution as of: April 15, 2022: | A         | 170,014,733 |
| Weekly User Contributions:                    | B         | 18,487,325  |
| Weekly User Withdrawals:                      | C         | (1,144,538) |
| Weekly Net Contribution:                      | D = B + C | 17,342,787  |
| Total Net Contributions as of April 22, 2022: | E = A + D | 187,357,520 |

EminiFX Stated Numbers

|  |                   |             |
|--|-------------------|-------------|
| Total Stated Account Value as of April 15, 2022: | F                 | 402,963,581 |
| Weekly Net Contribution:                         | G                 | 17,342,787  |
| Stated ROI Accrued:                              | H                 | 21,918,090  |
| Bonuses Accrued to Users:                        | I                 | 4,123,977   |
| Total Stated Account Value as of April 22, 2022: | J = F + G + H + I | 446,348,435 |

EminiFX Actual Numbers

|   |                       |             |
|---|-----------------------|-------------|
| Total MTM Value of EminiFX as of April 15, 2022:  | K                     | 154,047,140 |
| Weekly Net Contribution:                          | L                     | 17,342,787  |
| Weekly Investment MTM Gain/(Loss): <sup>(1)</sup> | M                     | (295,049)   |
| Weekly CoinPayments MTM Gain/(Loss):              | N                     | (2,203,702) |
| Weekly Operational and Other Expenses:            | O                     | (190,079)   |
| Total MTM Value of EminiFX as of April 22, 2022:  | P = K + L + M + N + O | 168,701,097 |

EminiFX Valuations (Stated vs. Actual)

|  |           |               |
|--|-----------|---------------|
| Total MTM Value Less Stated Account Value: | Q = P - J | (277,647,338) |
| Total MTM Value Less User Contributions:   | R = P - E | (18,656,423)  |

|                              |         |
|------------------------------|---------|
| Stated Weekly ROI:           | 5.05%   |
| Weekly Financial Performance | (1.75%) |

(1) Weekly Investment MTM Gain/(Loss) was calculated on balances provided. Amounts may include fees and other charges.

EminiFX Weekly Performance Report  
April 23, 2022 - April 29, 2022

EminiFX Net Contributions

|   |           |             |
|---|-----------|-------------|
| Total Net Contribution as of: April 22, 2022: | A         | 187,357,520 |
| Weekly User Contributions:                    | B         | 15,585,360  |
| Weekly User Withdrawals:                      | C         | (3,255,072) |
| Weekly Net Contribution:                      | D = B + C | 12,330,288  |
| Total Net Contributions as of April 29, 2022: | E = A + D | 199,687,808 |

EminiFX Stated Numbers

|  |                   |             |
|--|-------------------|-------------|
| Total Stated Account Value as of April 22, 2022: | F                 | 446,348,435 |
| Weekly Net Contribution:                         | G                 | 12,330,288  |
| Stated ROI Accrued:                              | H                 | 23,812,084  |
| Bonuses Accrued to Users:                        | I                 | 4,355,458   |
| Total Stated Account Value as of April 29, 2022: | J = F + G + H + I | 486,846,265 |

EminiFX Actual Numbers

|   |                       |             |
|---|-----------------------|-------------|
| Total MTM Value of EminiFX as of April 22, 2022:  | K                     | 168,701,097 |
| Weekly Net Contribution:                          | L                     | 12,330,288  |
| Weekly Investment MTM Gain/(Loss): <sup>(1)</sup> | M                     | (91,354)    |
| Weekly CoinPayments MTM Gain/(Loss):              | N                     | (3,183,220) |
| Weekly Operational and Other Expenses:            | O                     | (487,598)   |
| Total MTM Value of EminiFX as of April 29, 2022:  | P = K + L + M + N + O | 177,269,213 |

EminiFX Valuations (Stated vs. Actual)

|  |           |               |
|--|-----------|---------------|
| Total MTM Value Less Stated Account Value: | Q = P - J | (309,577,052) |
| Total MTM Value Less User Contributions:   | R = P - E | (22,418,595)  |

|                              |         |
|------------------------------|---------|
| Stated Weekly ROI:           | 5.03%   |
| Weekly Financial Performance | (2.23%) |

(1) Weekly Investment MTM Gain/(Loss) was calculated on balances provided. Amounts may include fees and other charges.

EminiFX Weekly Performance Report  
April 30, 2022 - May 06, 2022

EminiFX Net Contributions

|   |           |             |
|---|-----------|-------------|
| Total Net Contribution as of: April 29, 2022: | A         | 199,687,808 |
| Weekly User Contributions:                    | B         | 15,653,219  |
| Weekly User Withdrawals:                      | C         | (2,574,688) |
| Weekly Net Contribution:                      | D = B + C | 13,078,531  |
| Total Net Contributions as of May 06, 2022:   | E = A + D | 212,766,340 |

EminiFX Stated Numbers

|  |                   |             |
|--|-------------------|-------------|
| Total Stated Account Value as of April 29, 2022: | F                 | 486,846,265 |
| Weekly Net Contribution:                         | G                 | 13,078,531  |
| Stated ROI Accrued:                              | H                 | 26,481,266  |
| Bonuses Accrued to Users:                        | I                 | 4,829,564   |
| Total Stated Account Value as of May 06, 2022:   | J = F + G + H + I | 531,235,626 |

EminiFX Actual Numbers

|  |                       |             |
|--|-----------------------|-------------|
| Total MTM Value of EminiFX as of April 29, 2022: | K                     | 177,269,213 |
| Weekly Net Contribution:                         | L                     | 13,078,531  |
| Weekly Investment MTM Gain/(Loss): (1)           | M                     | (118,592)   |
| Weekly CoinPayments MTM Gain/(Loss):             | N                     | (8,144,082) |
| Weekly Operational and Other Expenses:           | O                     | (443,525)   |
| Total MTM Value of EminiFX as of May 06, 2022:   | P = K + L + M + N + O | 181,641,546 |

EminiFX Valuations (Stated vs. Actual)

|  |           |               |
|--|-----------|---------------|
| Total MTM Value Less Stated Account Value: | Q = P - J | (349,594,081) |
| Total MTM Value Less User Contributions:   | R = P - E | (31,124,794)  |

|                              |         |
|------------------------------|---------|
| Stated Weekly ROI:           | 5.17%   |
| Weekly Financial Performance | (4.91%) |

(1) Weekly Investment MTM Gain/(Loss) was calculated on balances provided. Amounts may include fees and other charges.

EminiFX Weekly Performance Report  
May 07, 2022 - May 13, 2022

EminiFX Net Contributions

|   |           |             |
|---|-----------|-------------|
| Total Net Contribution as of: May 06, 2022: | A         | 212,766,340 |
| Weekly User Contributions:                  | B         | 15,793,475  |
| Weekly User Withdrawals:                    | C         | (5,029)     |
| Weekly Net Contribution:                    | D = B + C | 15,788,446  |
| Total Net Contributions as of May 13, 2022: | E = A + D | 228,554,786 |

EminiFX Stated Numbers

|  |                   |             |
|--|-------------------|-------------|
| Total Stated Account Value as of May 06, 2022: | F                 | 531,235,626 |
| Weekly Net Contribution:                       | G                 | 15,788,446  |
| Stated ROI Accrued:                            | H                 | 0           |
| Bonuses Accrued to Users:                      | I                 | 903,249     |
| Total Stated Account Value as of May 13, 2022: | J = F + G + H + I | 547,927,322 |

EminiFX Actual Numbers

|   |                       |              |
|---|-----------------------|--------------|
| Total MTM Value of EminiFX as of May 06, 2022:    | K                     | 181,641,546  |
| Weekly Net Contribution:                          | L                     | 15,788,446   |
| Weekly Investment MTM Gain/(Loss): <sup>(1)</sup> | M                     | (1,799,869)  |
| Weekly CoinPayments MTM Gain/(Loss):              | N                     | (22,309,333) |
| Weekly Operational and Other Expenses:            | O                     | (163,984)    |
| Total MTM Value of EminiFX as of May 13, 2022:    | P = K + L + M + N + O | 173,156,806  |

EminiFX Valuations (Stated vs. Actual)

|  |           |               |
|--|-----------|---------------|
| Total MTM Value Less Stated Account Value: | Q = P - J | (374,770,516) |
| Total MTM Value Less User Contributions:   | R = P - E | (55,397,980)  |

|                              |          |
|------------------------------|----------|
| Stated Weekly ROI:           | N/A      |
| Weekly Financial Performance | (13.36%) |

(1) Weekly Investment MTM Gain/(Loss) was calculated on balances provided. Amounts may include fees and other charges.

# EXHIBIT 16

**EMINIFX PROPOSED DISTRIBUTION PLAN: RISING TIDE MODEL**

| Quintile - W/D% | User Count   | % Total Users | Deposits             | Withdrawals         | Initial Rising Tide | Net Inv Claim        | 50M Rising Tide     | Total Distro % | 50M Net Inv         | Total Distro % | 80M Rising Tide     | Total Distro % | 80M Net Inv         | Total Distro % |
|-----------------|--------------|---------------|----------------------|---------------------|---------------------|----------------------|---------------------|----------------|---------------------|----------------|---------------------|----------------|---------------------|----------------|
| zero w/d        | 26000        | 80%           | \$172,000,000        | \$0                 | 0%                  | \$172,000,000        | \$40,558,952        | 24%            | \$35,714,286        | 21%            | \$62,032,787        | 36%            | \$57,142,857        | 33%            |
| 0 to 20         | 2500         | 8%            | \$57,000,000         | \$4,000,000         | 7%                  | \$53,000,000         | \$9,441,048         | 24%            | \$11,004,983        | 26%            | \$16,557,377        | 36%            | \$17,607,973        | 38%            |
| 20 to 40        | 1000         | 3%            | \$15,000,000         | \$4,000,000         | 27%                 | \$11,000,000         | \$0                 | 27%            | \$2,284,053         | 42%            | \$1,409,836         | 36%            | \$3,654,485         | 51%            |
| 40 to 60        | 500          | 2%            | \$7,000,000          | \$3,500,000         | 50%                 | \$3,500,000          | \$0                 | 50%            | \$726,744           | 60%            | \$0                 | 50%            | \$1,162,791         | 67%            |
| 60 to 80        | 300          | 1%            | \$3,000,000          | \$2,000,000         | 67%                 | \$1,000,000          | \$0                 | 67%            | \$207,641           | 74%            | \$0                 | 67%            | \$332,226           | 78%            |
| 80 to 100       | 200          | 1%            | \$2,000,000          | \$1,700,000         | 85%                 | \$300,000            | \$0                 | 85%            | \$62,292            | 88%            | \$0                 | 85%            | \$99,668            | 90%            |
| 100+ (NWs)      | 2000         | 6%            | \$4,000,000          | \$18,800,000        | 470%                | \$0                  | \$0                 | 470%           | \$0                 | 470%           | \$0                 | 470%           | \$0                 | 470%           |
| <b>Total</b>    | <b>32500</b> |               | <b>\$260,000,000</b> | <b>\$34,000,000</b> |                     | <b>\$240,800,000</b> | <b>\$50,000,000</b> |                | <b>\$50,000,000</b> |                | <b>\$80,000,000</b> |                | <b>\$80,000,000</b> |                |
|                 |              |               |                      |                     |                     |                      | 50,000,000          |                | 50,000,000          |                | 80,000,000          |                | 80,000,000          |                |
|                 |              |               |                      |                     |                     |                      | 23.6%               |                | 20.8%               |                | 36.1%               |                | 33.2%               |                |

**Sample User Analysis**

|              |          | <u>Rising Tide Distribution</u> | <u>Net Investment Distribution</u> | <u>Rising Tide Distribution</u> | <u>Net Investment Distribution</u> |
|--------------|----------|---------------------------------|------------------------------------|---------------------------------|------------------------------------|
| Deposits:    | \$10,000 |                                 |                                    |                                 |                                    |
| Withdrawals: | \$0      | \$2,358                         | \$2,076                            | \$3,607                         | \$3,322                            |
|              | \$2,000  | \$358                           | \$1,661                            | \$1,607                         | \$2,658                            |
|              | \$4,000  | \$0                             | \$1,246                            | \$0                             | \$1,993                            |
|              | \$8,000  | \$0                             | \$415                              | \$0                             | \$664                              |

| Quintile - W/D% | User Count   | % Total Users | Deposits             | Withdrawals         | Initial Rising Tide | Net Inv Claim        | 110M Rising Tide     | Total Distro % | 110M Net Inv         | Total Distro % | 140M Rising Tide     | Total Distro % | 140M Net Inv         | Total Distro % |
|-----------------|--------------|---------------|----------------------|---------------------|---------------------|----------------------|----------------------|----------------|----------------------|----------------|----------------------|----------------|----------------------|----------------|
| zero w/d        | 26000        | 80%           | \$172,000,000        | \$0                 | 0%                  | \$172,000,000        | \$83,180,328         | 48%            | \$78,571,429         | 46%            | \$103,816,733        | 60%            | \$100,000,000        | 58%            |
| 0 to 20         | 2500         | 8%            | \$57,000,000         | \$4,000,000         | 7%                  | \$53,000,000         | \$23,565,574         | 48%            | \$24,210,963         | 49%            | \$30,404,382         | 60%            | \$30,813,953         | 61%            |
| 20 to 40        | 1000         | 3%            | \$15,000,000         | \$4,000,000         | 27%                 | \$11,000,000         | \$3,254,098          | 48%            | \$5,024,917          | 60%            | \$5,053,785          | 60%            | \$6,395,349          | 69%            |
| 40 to 60        | 500          | 2%            | \$7,000,000          | \$3,500,000         | 50%                 | \$3,500,000          | \$0                  | 50%            | \$1,598,837          | 73%            | \$725,100            | 60%            | \$2,034,884          | 79%            |
| 60 to 80        | 300          | 1%            | \$3,000,000          | \$2,000,000         | 67%                 | \$1,000,000          | \$0                  | 67%            | \$456,811            | 82%            | \$0                  | 67%            | \$581,395            | 86%            |
| 80 to 100       | 200          | 1%            | \$2,000,000          | \$1,700,000         | 85%                 | \$300,000            | \$0                  | 85%            | \$137,043            | 92%            | \$0                  | 85%            | \$174,419            | 94%            |
| 100+ (NWs)      | 2000         | 6%            | \$4,000,000          | \$18,800,000        | 470%                | \$0                  | \$0                  | 470%           | \$0                  | 470%           | \$0                  | 470%           | \$0                  | 470%           |
| <b>Total</b>    | <b>32500</b> |               | <b>\$260,000,000</b> | <b>\$34,000,000</b> |                     | <b>\$240,800,000</b> | <b>\$110,000,000</b> |                | <b>\$110,000,000</b> |                | <b>\$140,000,000</b> |                | <b>\$140,000,000</b> |                |
|                 |              |               |                      |                     |                     |                      | 110,000,000          |                | 110,000,000          |                | 140,000,000          |                | 140,000,000          |                |
|                 |              |               |                      |                     |                     |                      | 48.4%                |                | 45.7%                |                | 60.4%                |                | 58.1%                |                |

**Sample User Analysis**

|              |          | <u>Rising Tide Distribution</u> | <u>Net Investment Distribution</u> | <u>Rising Tide Distribution</u> | <u>Net Investment Distribution</u> |
|--------------|----------|---------------------------------|------------------------------------|---------------------------------|------------------------------------|
| Deposits:    | \$10,000 |                                 |                                    |                                 |                                    |
| Withdrawals: | \$0      | \$4,836                         | \$4,568                            | \$6,036                         | \$5,814                            |
|              | \$2,000  | \$2,836                         | \$3,654                            | \$4,036                         | \$4,651                            |
|              | \$4,000  | \$836                           | \$2,741                            | \$2,036                         | \$3,488                            |
|              | \$8,000  | \$0                             | \$914                              | \$0                             | \$1,163                            |

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

COMMODITY FUTURES TRADING COMMISSION,

Plaintiff,

-against-

EDDY ALEXANDRE and  
EMINIFX, INC.,

Defendants.

Case No.: 22 Civ. 3822 (VEC)

**[PROPOSED] ORDER APPROVING  
(I) THE RECEIVER’S DISTRIBUTION PLAN;  
(II) THE DETERMINATION OF ALLOWED USER CLAIMS;  
(III) NOTICE OF DISTRIBUTION PLAN; AND  
(IV) AUTHORITY TO PURSUE CAUSES OF ACTION**

UPON consideration of the motion (the “**Motion**”) by David A. Castleman, the Court-appointed receiver (the “**Receiver**”) over Defendant EminiFX, Inc. (“**EminiFX**”) and certain assets of Defendant Eddy Alexandre (“**Alexandre**”) pursuant to this Court’s Consent Order for Preliminary Injunction (“**Consent Order**”) [Dkt. 56], seeking an order approving (i) the Receiver’s proposed Distribution Plan;<sup>1</sup> (ii) the determination of Allowed User Claims; (iii) notice of the Distribution Plan; and (iv) authority to pursue Causes of Action; and the memorandum of law and the affidavit of David A. Castleman (the “**Castleman Aff.**”) in support of the Motion; and the additional responses and pleadings filed in opposition to and support thereof; and based on the record herein and after due deliberation, the Court finds as follows:

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<sup>1</sup> A copy of the Distribution Plan is attached hereto as Exhibit A. Capitalized terms used but not defined herein shall have the meaning ascribed in the Distribution Plan.



**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

A. The Receiver provided Users and Non-User Claimants with sufficient and proper notice of the Distribution Plan and an opportunity to be heard. The Receiver filed any responses received from User and Non-User Claimants on September 10, 2024 [Dkt.  ]. The Court has reviewed those responses and all other pleadings submitted on this Motion. No further notice or opportunity to be heard is necessary under the circumstances.

B. The Court possesses broad equitable powers to determine appropriate action in the administration of an equity receivership, including determining how and to whom receivership assets will be distributed. *S.E.C. v. Fischbach Corp.*, 133 F.3d 170, 175 (2d Cir. 1997).

C. The Court may approve a proposed plan of distribution that it is “fair and reasonable.” *S.E.C. v. Amerindo Inv. Advisors Inc.*, 2016 WL 10821985, at \*3 (S.D.N.Y. May 20, 2016). Under the circumstances of this case, the proposed Distribution Plan is fair and reasonable, promotes equity among Users and Non-User Claimants of EminiFX, and is in the best interests of the Receivership estate.

D. The Distribution Plan’s classification of Claims is proper and appropriate under the circumstances. Specifically, the classification and treatment of Administrative Claims, Tax Claims, User Claims (including User Convenience Class Claims), Other Claims, and Subordinated Claims is fair and reasonable, and equitable to affected Claimants.

E. Indicators that an investment company is a Ponzi scheme include “the absence of any legitimate business connected to the investment program, the unrealistic promises of low risk and high returns, commingling investor money, the use of agents and brokers paid high commissions to perpetuate the scheme, misuse of investor funds, the ‘payment’ of excessively large fees to the perpetrator and the use of false financial statements.” *Gowan v. Amaranth*

*Advisors L.L.C. (In re Dreier LLP)*, 2014 WL 47774, at \*9 (Bankr. S.D.N.Y. Jan. 3, 2014); *see also Pergament v. Torac Realty, LLC (In re Diamond Fin. Co., Inc.)*, 658 B.R. 748, 766 (Bankr. E.D.N.Y. 2024) (noting the use of a similar four-factor test: “1) deposits were made by investors; 2) the [d]ebtor conducted little or no legitimate business operations as represented to investors; 3) the purported business operation of the Debtor produced little or no profits or earnings; and 4) the source of payments to investors was from cash infused by new investors.”) (quoting *S.I.P.C. v. Bernard L. Madoff Inv. Sec. LLC (In re Bernard L. Madoff)*, 531 B.R. 439, 471 (Bankr. S.D.N.Y. 2015)).

F. Here, the substantial evidence reviewed by the Court establishes that:

i. Investors in EminiFX, such as the User Claimants in Class 3 and Class 3A, made substantial deposits into the EminiFX System well in excess of \$200 million. EminiFX only actively invested a fraction of the funds received, did not produce any profits or earnings, and incurred substantial losses during its short time in operation.

ii. The 5.00% to 9.99% weekly returns paid to EminiFX investors each week, without any returns less than 5.00% per week or any negative weeks, were extremely high returns that were not based on actual investing activity.

iii. EminiFX investors deposits were commingled and maintained in the same EminiFX accounts. EminiFX investors were paid withdrawals from the same accounts that received EminiFX deposits, such that the source of withdrawal payments was the cash infused by new investors.

iv. The payment of multilevel marketing bonuses of over \$56 million during EminiFX’s short time in operation represents the payment of very high commissions in order to perpetuate the EminiFX scheme.

v. Over \$15 million was transferred from EminiFX to Alexandre's personal accounts.

vi. There were no reliable financial records maintained by EminiFX, and the dashboard showed to EminiFX investors reflecting the payment of fictitious profits and large multilevel marketing bonuses did not reflect reality.

G. The Court therefore finds that, for the purpose of implementing the Distribution Plan, for determining the components of User claims, and for asserting any claims against recipients of transfers from EminiFX, EminiFX operated as a Ponzi scheme from its formation in September 2021 through cessation of its operations in May 2022.

H. A *pro rata* distribution to investors and, specifically, the Rising Tide method of calculating distributions to investors is approach is widely considered to be the most equitable in the case of a Ponzi scheme. *S.E.C. v. Callahan*, 193 F. Supp. 3d 177 (E.D.N.Y. 2016). The Distribution Plan's use of the Rising Tide methodology for calculating distributions to Holders of User Claims and User Convenience Class Claims (Classes 3 and 3A) is therefore fair and reasonable, and appropriate under the circumstances in this action.

I. ROI and bonuses attributed to EminiFX Users constituted fictitious profits and/or were not based on investment activity of EminiFX. Internal transfers did not represent the flow of actual funds into or out of the EminiFX System. Accordingly, the exclusion of ROI, bonuses, and internal transfers from the calculation of Allowed User Claims and Allowed User Convenience Class Claims is fair and reasonable, and appropriate under the circumstances.

J. The Receiver has a sufficiently reasonable basis to assert claims against Persons who received withdrawals from EminiFX in excess of their deposits into the EminiFX System ("**Net Winners**"). The Distribution Plan reasonably, fairly, and appropriately provides the

Receiver with authority to assert any such claims and settle any such claims, whether or not a formal action is commenced, as set forth herein and in the Distribution Plan.

K. The Distribution Plan's procedures regarding third parties holding liens or other encumbrances against distributions otherwise payable to Holders are fair and reasonable and appropriate under the circumstances.

L. The Distribution Plan's procedures for EminiFX Causes of Action, including those related to the subordination or consolidation of EminiFX Claims, are fair and reasonable and appropriate under the circumstances.

M. The Distribution Plan's procedures for making distributions to Claimants are fair and reasonable and appropriate under the circumstances.

### **ORDER**

#### **BASED ON THE FOREGOING, IT IS HEREBY ORDERED THAT:**

1. The Motion and the relief sought therein is granted as set forth herein.
2. To the extent not withdrawn, all objections and responses filed to the Motion and the Distribution Plan are overruled in all respects.
3. The Distribution Plan is approved in all respects.
4. The Receiver is authorized to take all action deemed necessary and appropriate in his discretion to implement the terms of the Distribution Plan.
5. The Allowed Claims of Class 3 and Class 3A Claimants shall be based solely on their Verified User Deposit Amounts, as that term is defined in the Distribution Plan, and shall not include ROI, bonuses, or internal transfers between Users in the EminiFX System, as set forth in the Distribution Plan.

6. With respect to Causes of Action against Net Winners, the Receiver is authorized to settle such Causes of Action for a return to the Receivership estate of fifty percent of the amount by which a Net Winner's Verified User Deposit Amount exceeds their Verified User Withdrawal Amount, in exchange for a release of liability, subject to further terms determined by the Receiver in the best interest of the Receivership estate, including but not limited to the resolution of additional claims against such persons or entities, without further order of this Court. The Receiver is authorized to set a June 30, 2025 deadline to settle such Net Winner Causes of Action, but may for good cause extend that deadline for some or all Net Winners.

7. With respect to any other Causes of Action or Net Winner Causes of Action not settled on the foregoing terms, the Receiver may bring such claims in accordance with the Consent Order for Preliminary Injunction [Dkt. 56 ¶ 37, incorporating Dkt. 9 ¶ 31(i)], and may settle or compromise such claims consistent with the Court's Order on Supplemental Procedures dated August 5, 2022 [Dkt. 91], provided that the Receiver may, without further order of the Court, seek approval of any settlement under seal if such settlement agreement contains a confidentiality provision.

8. The Receiver is authorized to commence distributions as set forth in the Distribution Plan at any time after of the entry of this Order (*i.e.*, the Effective Date).

9. The Court shall retain jurisdiction to hear and determine all matters arising from the implementation of this Order, as well as other matters for which this Court retains jurisdiction as identified in the Distribution Plan.

10. This Order shall be otherwise immediately effective and enforceable upon its entry.

**SO ORDERED:**

Dated: New York, New York

\_\_\_\_\_, 2024

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THE HON. VALERIE E. CAPRONI  
UNITED STATES DISTRICT JUDGE  
SOUTHERN DISTRICT OF NEW YORK