

PLAN OF ALLOCATION

The Net Settlement Fund (defined below) will be allocated amongst all Settlement Class Members, as defined as “Putative Class Member” in Paragraph I(1) of the Joint Stipulation of Settlement and Release, who did not submit a timely request for exclusion, subject to the exceptions listed in footnote 1 below.¹

FORMULA

Settlement Class Members will receive a share of the Settlement Fund less all court-approved costs, service awards, attorneys’ fees, and employer withholdings tax (“Net Settlement Fund”). **First**, each Settlement Class Member will be allocated a minimum per capita amount of \$200.00. **Next**, each Settlement Class member will be allocated their share of the remaining Net Settlement Fund according to the Formula set out below.

Each Settlement Class Member will be assigned an Individual Class Member Share, denoted as a percentage of the Fund. Settlement Class Members will be paid a corresponding percentage of the Fund. The processes for calculating the Individual Class Member Share is as follows:

Calculating Individual Class Member Share

1. Filter Bank of America’s Microsoft Excel spreadsheets to exclude all employees who received a vacation payout—that is, employees with a positive balance listed in the columns listed “Vacation Payout Amount (VAP)” or “Vacation Payout Hours (VAP)” (Columns N and O).
2. For the remaining employees who did not receive a vacation payout, determine the total number of Unpaid Vacation Hours by adding the figure listed in the column listed “Annual Accrual” (Column R) to the column listed “Carryover” (Column Q).
3. From this figure, subtract the number of hours listed in the column labeled “VAC Pay – EX” (Column P), which represents the amount of vacation actually used by the employee.
4. For each employee, multiply the resulting total number of Unpaid Vacation Hours by the “Hourly Rate of Pay” (Column S) to determine that employee’s Total Losses.
5. For Settlement Class Members who worked in California, multiply this figure by 1.4 to determine their Total Losses.
6. Determine the aggregate amount of Total Losses for the entire class. To do so, repeat steps 1-5 for each eligible Settlement Class Member and sum up the total.
7. For each Settlement Class Member, divide the individual Total Losses figure by the aggregate Total Losses for the entire class. The resulting percentage constitutes the Individual Class Member Share for each Settlement Class Member.

¹ Excluded from the Classes are Bank of America, any entity in which Bank of America has a controlling interest, any of the officers or directors of Bank of America, the legal representatives, heirs, successors, and assigns of Bank of America, anyone employed with Plaintiffs’ counsel’s firms, and any Judge to whom this case is assigned, and his or her immediate family.

8. Each Settlement Class Member will be allocated a percentage of the Fund corresponding to their Individual Class Member Share.

Formula for Distribution of the Settlement Fund:

1. The Net Settlement Fund shall be reduced to cover payroll taxes as defined by the Settlement Agreement.
2. All eligible Settlement Class Members shall be allocated a Minimum Payment of \$200.00.
3. All remaining funds shall be divided into Individual Class Member Shares as set forth above.
4. Each eligible Settlement Class Member shall receive a distribution equal to their Individual Class Member Share plus their Minimum Payment of \$200.00.

The relevant payroll and compensation data will be conclusively derived from Bank of America's data and determined by the Notice Administrator.

Payments to Settlement Class Members shall not be made until the Effective Date has passed and all objections, collateral challenges or appeals relating to the Settlement have been fully and finally resolved.

EMPLOYER TAX WITHHOLDINGS

The Settlement states that taxes shall be paid from the Settlement Fund. Payments to Settlement Class Members shall be reduced by any employee withholding amounts that the Settlement Administrator determines must be paid directly to the relevant taxing authorities.

REMAINING FUNDS

For Settlement Class Members who could not be located (after continuing diligent efforts by the Settlement Administrator) or who do not cash their checks by the stale date, the Settlement Administrator shall remit such payments to the relevant unclaimed property divisions. To the extent undistributed funds still remain after this process is complete, Plaintiffs will petition the Court for an order to dispose of the remaining funds. At this time, Plaintiffs anticipate the remaining Settlement amounts will be distributed pro rata to Settlement Class Members who deposited their settlement checks. In no event shall any of the remaining funds be returned to Bank of America.