UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In re BARCLAYS BANK PLC SECURITIES LITIGATION	Master File No. 1:09-cv-01989-PAC
This Document Relates to: ALL ACTIONS	

THE BARCLAYS DEFENDANTS' LOCAL RULE 56.1 STATEMENT OF MATERIAL FACTS AS TO WHICH THERE IS NO GENUINE ISSUE TO BE TRIED

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Pursuant to Local Civil Rule 56.1 of the United States District Court for the Southern District of New York, the Barclays Defendants respectfully submit this statement of material facts as to which there is no genuine issue to be tried in support of The Barclays Defendants' Motion for Summary Judgment, dated October 21, 2016.

I. Background

A. Barclays

1. Barclays was and is a global financial services provider engaged in retail and commercial banking, credit cards, investment banking, wealth management and investment management services, headquartered in London. (Ex. 1 (Barclays' Annual Report for the fiscal year ended December 31, 2007 filed on Form 20-F) (the "2007 20-F") at 115.)[1]

2. In 2007-2008, Barclays was organized in the following business groupings: UK Banking, UK Retail Banking, Barclays Commercial Bank, Barclaycard, International Retail and Commercial Banking, Barclays Capital, Barclays Global Investors and Barclays Wealth. (Ex. 1 (2007 20-F) at 8-9.)

3. In 2007-2008, Barclays Capital was an investment bank based in New York. Barclays Capital was organized in three principal areas: Rates, Credit and Private Equity. (Ex. 1 (2007 20-F) at 25.)

4. At year-end 2007, Barclays had assets of £1,227,361 million (*i.e.*, approximately £1.23 trillion), total shareholders' equity of £32,476 million (*i.e.*, approximately £32.5 billion) and total income of £23,492 million (*i.e.*, approximately £23.5 billion). (Ex. 1 (2007 20-F) at 160-61.)

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[1] Citations to "Ex. __" are to exhibits to the Declaration of Thomas C. White, submitted herewith. As used herein, "Barclays" means Barclays PLC and Barclays Bank PLC.

5. At year-end 2007, Barclays' "Tier 1 Capital ratio" was 7.8% and its "Equity Tier 1 ratio" was 5.0% under Basel I. Barclays "started managing capital ratios under Basel II" on January 1, 2008; Barclays' Tier 1 Capital ratio was 7.6% and its Equity Tier 1 ratio was 5.1% under Basel II. (Ex. 1 (2007 20-F) at 5.)

6. The Tier 1 Capital ratio is total Tier 1 capital over total risk weighted assets, and the Equity Tier 1 ratio is total equity Tier 1 capital over total risk weighted assets. (*See* Ex. 27 ("The Turner Review: A Regulatory Response to the Global Banking Crisis," FSA, March 2009) at 55-56.)

7. In 2007 and 2008, the U.K. regulatory minimum was 4% for the Tier 1 Capital ratio and 2% for the Equity Tier 1 ratio. (Ex. 27 ("The Turner Review: A Regulatory Response to the Global Banking Crisis," FSA, March 2009) at 56, 57.)

8. At all times during 2007 and 2008, Barclays' Tier 1 Capital ratio and Equity Tier 1 ratio were above the regulatory minima. (*See* Ex. 50 (Varley Dep.) at 199-200; Ex. 1 (2007 20-F) at 5.)

B. Lead Plaintiff Dennis Askelson

9. Dennis Askelson bought 2,400 shares of Barclays American Depositary Shares, Series 5 ("Series 5 ADS") on April 9, 2008 at a price of $25 per share for $60,000. (Ex. 60 (Lead Plaintiff Dennis Askelson's Verified Responses and Objections to the Underwriter Defendants' First Set of Interrogatories to Lead Plaintiff) at 8.)

10. Mr. Askelson has received dividends of over $41,000 on his 2,400 shares through September 2016. (*See* Ex. 37 (Askelson Dep.) at 184; Ex. 61 (Lead Plaintiffs' Objections and Responses to the Barclays' Defendants First Set of Interrogatories) at 30; Ex. 16 (Series 5 ADS Dividend History).)

11. Mr. Askelson testified that he bought the 2,400 Series 5 shares in April 2008 as a "long-term investment." (Ex. 37 at 103.)

12. Mr. Askelson testified that his Series 5 investment was the "best investment [he's] made since April 2008." (Ex. 37 at 206, 309.)

II. The Series 5 ADS Offering

13. The offering documents for the Series 5 ADS Offering comprised the registration statement and prospectus filed on August 31, 2007 with the Securities and Exchange Commission (the "SEC") (Ex. 2), the prospectus supplement dated April 8, 2008 and filed on April 9, 2008 with the SEC (the "Prospectus Supplement") (Ex. 3), and other SEC filings incorporated by reference, including Barclays' Annual Report for the fiscal year ended December 31, 2007 filed on Form 20-F (Ex. 1). (*See* Ex. 3 (Prospectus Supplement) at S-4.)

14. Pursuant to the offering documents, Barclays offered 100 million Series 5 ADS at $25 per share on or about April 8, 2008. (Ex. 3 (Prospectus Supplement) at S-5.)

A. The Series 5 ADS; Preference Shares

15. Each Series 5 ADS represents one preference share. The preference shares are "dollar-denominated non-cumulative callable preference shares." (Ex. 3 (Prospectus Supplement) at S-5.)

16. The preference shares "rank senior to [Barclays'] ordinary shares and any other class of [Barclays'] shares ranking junior to the preference shares." (Ex. 3 (Prospectus Supplement) at S-6.)

17. The preference shares do not have voting rights. (Ex. 3 (Prospectus Supplement) at S-8.)

18. The Series 5 ADS are listed and traded on the New York Stock Exchange. The underlying preference shares are not traded. (Ex. 3 (Prospectus Supplement) at S-32.)

19. The closing prices for the Series 5 ADS are publicly available on Bloomberg. (*See* Ex. 15 (Series 5 ADS Price Chart).)

20. The Series 5 offering documents stated that "[n]on-cumulative preferential dividends will accrue on the preference shares from and including the date of their issuance . . . at a rate of 8.125% per year on the amount of $25 per preference share" and "[d]ividends on the preference shares may be paid only to the extent that payment can be made out of our distributable profits." (Ex. 3 (Prospectus Supplement) at S-6.)

21. The preference shares pay quarterly dividends. (Ex. 3 (Prospectus Supplement) at S-6.)

22. Barclays has paid this dividend on every quarterly dividend date since the issuance of the Series 5 ADS. (Ex. 16 (Series 5 ADS Dividend History).)

B. Events Leading Up to the Series 5 ADS Offering

1. November 15, 2007 Update and Conference Call

23. Barclays publicly issued an "update" on November 15, 2007 (the "11/15/07 Update"). (Ex. 4.)

24. The 11/15/07 Update described certain "capital markets trading performance and exposures" and included a "[s]ummary of Barclays Capital net charges and write downs" for the third quarter (July-September) of 2007 and October of 2007. (Ex. 4 at 1, 4.)

25. Barclays hosted a "Trading Update Conference Call" on November 15, 2007 (the "11/15/07 Call"). A transcript of the 11/15/07 Call was published by Thomson Financial on or about November 15, 2007. (Ex. 5.)

26. The 11/15/07 Call transcript includes the following quotation, attributed to Robert Diamond of Barclays: "There's certain sectors of the market that will be very, very difficult in '08. Our sub-prime is the poster child for that." (Ex. 5 at 14.)

27. The 11/15/07 Call transcript includes the following quotation, attributed to Robert Diamond of Barclays: "Sub-prime will be in workout for a couple of years, there's no question about it. That sector of the market is troubled and difficult and will get worked out." (Ex. 5 at 12.)

2. February 19, 2008 Results Announcement and Conference Call

28. On February 19, 2008, Barclays publicly issued its results announcement for the year ended December 31, 2007. Barclays hosted an investor conference call on February 19, 2008 (the "2/19/08 Call"). A transcript of the 2/19/08 Call was published by Thomson Financial on or about February 19, 2008. (Ex. 6.)

29. The 2/19/08 Call transcript includes the following quotation, attributed to Christopher Lucas of Barclays, concerning valuations:

> In terms of page 60 we've, for each asset class, been through a rigorous process in terms of marking these to market. They are the December 31 marks. We draw the line there and take those market prices and inputs that are available to us on the 31st. We of course in the few days following that look for information that may tell us there was something wrong about those marks but what we do not do is update the marks in the absence of finding anything that is materially different from what we've found at the end of the year. In terms of the process, they go through an independent product control process, independent of the desks, they run through a challenge process up to and including Bob and the senior management at Barclays Capital and there are a series of adjustments that are made reflected in here following that process. Finally, they're subject to year end audits, and these have been through that and are the products of that.

(Ex. 6 at 13.)

30. The 2/19/08 Call transcript includes the following quotation, attributed to Christopher Lucas of Barclays, concerning valuations:

> We continually mark the positions as we do across the whole business, on a daily, weekly, monthly basis. And if we had something that we felt significantly changed the comments that

> we've made about the outlook and something that had a significant effect on the market position of our equity, we'd make a statement and we do not feel we have to make one.

(Ex. 6 at 22.)

31. The 2/19/08 Call transcript includes the following quotation, attributed to Robert Diamond of Barclays: "[W]e expect the first half [of 2008], no mistake, to be extremely challenging" and "[2007] was a very tough environment." (Ex. 6 at 9, 15.)

32. The 2/19/08 Call transcript includes the following quotation, attributed to Robert Diamond of Barclays: "[W]e think for all the reasons we've said about difficult market conditions in the first six months [of 2008], it's unlikely that that market's going to be really moving, we think, before the second half of this year, if earlier, maybe at the very end of the second quarter." (Ex. 6 at 27.)

33. The 2/19/08 Call transcript includes the following quotation, attributed to John Varley of Barclays, concerning capital:

> [W]e've had cause to reflect quite carefully on that. And of course I like the fact that in the Tier 1 we're running well ahead of our target, that seems to me to be a good and a comfortable position to be in. In terms of the equity ratio, I made some remarks consciously about that because it is—the 5.1% is just below our target of 5.25%.

(Ex. 6 at 13.)

C. Barclays' 2007 20-F

34. Barclays filed its 2007 Annual Report on Form 20-F, for the year ended December 31, 2007, on March 26, 2008. (Ex. 1.)

35. The 2007 20-F stated: "The results of severe disruption in the US sub-prime mortgage market were felt across many wholesale credit markets in the second half of 2007, and were reflected in wider credit spreads, higher volatility, tight liquidity in interbank and

commercial paper markets, more constrained debt issuance and lower investor risk appetite."

(Ex. 1 at 65.)

36. The 2007 20-F also stated:

> Going into 2008, the credit environment reflects concern about weakening economic conditions in our major markets. Credit spreads and other indicators signal that the credit cycle has changed after a long period of stability. We expect some deterioration in credit metrics as default probabilities move toward their medium-term averages. The environment has led to a more cautious approach to credit assessment, pricing and ongoing control in the financial industry, which we believe will continue through the year.

(Ex. 1 at 65.)

37. The 2007 20-F included the following table concerning Barclays Capital credit market positions:

Financial review

Barclays Capital credit market positions

Barclays Capital credit market positions

Barclays Capital credit market exposures resulted in net losses of £1,635m in 2007, due to dislocations in the credit markets. The net losses primarily related to ABS CDO super senior exposures, with additional losses from other credit market exposures partially offset by gains from the general widening of credit spreads on issued notes held at fair value.

Credit market exposures in this note are stated relative to comparatives as at 30th June 2007, being the reporting date immediately prior to the credit market dislocations.

	As at	
	31st December 2007 £m	30th June 2007 £m
ABS CDO Super Senior		
High Grade	4,869	6,151
Mezzanine	1,149	1,629
Exposure before hedging	6,018	7,780
Hedges	(1,347)	(348)
Net ABS CDO Super Senior	4,671	7,432
Other US sub-prime		
Whole loans	3,205	2,900
Other direct and indirect exposures	1,832	3,146
Other US sub-prime	5,037	6,046
Alt-A	4,916	3,760
Monoline insurers	1,335	140
Commercial mortgages	12,399	8,282
SIV-lite liquidity facilities	152	692
Structured investment vehicles	590	925

(Ex. 1 at 53.)

38. On the same page as the above table, the 2007 20-F stated that Barclays Capital "held assets with insurance protection or other credit enhancement from monoline insurers. The

value of exposure to monoline insurers under these contracts was £1,335m (30th June 2007: £140m). There were no claims due under these contracts as none of the underlying assets were in default." (Ex. 1 at 53.)

39. The credit valuation adjustment on Barclays Capital's monoline exposure was £59 million as of December 31, 2007. (Ex. 45 (O'Driscoll Dep.) at 177, 182, 223.)

III. Barclays' Valuation Processes; PwC's Audit Work

40. Mr. Varley testified that Barclays had "a very extensive and rigorous process for securities valuation. It started at the trading desk. It involved the product control group, who were separate from the trading desk. It involved [] Barclays Capital finance. It then went to central Barclays Capital finance. It then went to central group finance. It then as appropriate went to auditors, underwriters, external advisers. So what I am describing here is an extensive system that was designed to ensure that our valuations were hard-headed and rigorous." (Ex. 50 at 23-24.)

41. Mr. Varley testified: "[V]ery considerable care was taken as a result of the processes that I have described to you before, very considerable care was taken to ensure that these assets were appropriately mark to market or were, absent market activity, marked to model." (Ex. 50 at 187.)

42. The Product Control Group ("PCG") reported through the Chief Financial Officer of Barclays Capital, who was Patrick Clackson in 2007 and 2008. (*See* Ex. 39 (Clackson Dep.) at 16-18.)

43. Mr. Clackson's "responsibilities were to ensure [Barclays] had complete[,] accurate results of the investment bank reflected in our management accounts, our reports to the Board and our external filings; and providing forecasts and budgets both to an investment banking management and to Barclays group." (Ex. 39 (Clackson Dep.) at 16.)

44. Among other things, PCG was responsible for "preparing the daily P&L and doing the valuation testing on the trading books." (Ex. 39 (Clackson Dep.) at 16.)

45. Barclays Capital traders were responsible for "marking" (valuing) positions they oversaw on a daily basis, based on information from market sources. (*See*, *e.g.*, Ex. 42 (Hamilton Dep.) at 94-95; Ex. 43 (Kvalheim Dep.) at 181-82).)

46. Traders' marks were subject to review and adjustment by the head of the relevant trading desk. (*See*, *e.g.*, Ex. 43 (Kvalheim Dep.) at 202.)

47. PCG was responsible for "price testing" the traders' marks. The price testing process "check[ed] that all trades which were done were booked correctly, recorded correctly, and they liaised with the Technical Accounting Group . . . to ensure that we were following all the appropriate accounting policies." (Ex. 39 (Clackson Dep.) at 21.)

48. If PCG and desk personnel were unable to resolve differing valuation judgments, the issue would be escalated to senior managers, including the CFO. (Ex. 43 (Kvalheim Dep.) at 196-98); *see also* Ex. 49 (Teague Dep.) at 59-61, 65-67, 82-83; Ex. 42 (Hamilton Dep.) at 99-100; Ex. 44 (Landreman Dep.) at 84-85; Ex. 39 (Clackson Dep.) at 31, 40, 191-92.)

49. As Sean Teague, a PCG director responsible for "document[ing], understand[ing], and help[ing to] determine [] the appropriate valuation range" for Barclays' assets, testified, "[t]he responsibility of the product control valuations team is to work closely with the P&L line team, ensuring that the books are properly marked, basically the guardians of the balance sheet to working under the CFO to ensure when the CFO is signing off on the financials that the values are correct." (Ex. 49 (Teague Dep.) at 21, 65.)

50. As Mr. Teague testified, PCG's valuations were performed independently from the traders; they worked "separate from the desk" at which the traders worked, and they would

"talk straight to the brokers" for pricing information used in their valuations. PCG came "up with [its] own marks to ensure the integrity of the balance sheet" and would "challenge a trader [] if there was a price discrepancy creating a material variance between where product control believed that a position should be priced versus where trading had marked it." (Ex. 49 (Teague Dep.) at 67, 70.)

51. As Richard Landreman, another PCG Director, testified, for assets for which prices were "less observable," PCG was "more involved in modeling and making sure the assumptions that we had in our models were consistent with what was being published out in the secondary market." (Ex. 44 (Landreman Dep.) at 57.)

52. Mr. Landreman testified: "We believed that the assumptions we were using were credible, and they were defendable; that we could point to other observable trades that had occurred or other published publications at that time that would support our use of those assumptions." (Ex. 44 (Landreman Dep.) at 79-80.)

53. PwC audited Barclays' 2007 financial statements. As part of PwC's audit, PwC reviewed the valuations of Barclays Capital's credit market exposures. (*See* Ex. 1 (2007 20-F) at 147-48; Ex. 52 (Barclays Capital Credit Valuation at December 31, 2007, Critical Matter, dated February 7, 2008) (the "February 7 Critical Matter Memo").)

54. As reflected in a PwC document dated January 25, 2008, entitled Barclays Capital U.S. – Analysis of CDO, ABS, & CDS Pricing (the "PwC Pricing Memo"):

> The Financial Analytics group "we," "us," or "Financial Analytics" within PricewaterhouseCoopcrs LLP "PwC" Advisory performed an analysis of financial instruments selected and provided to us by the BarCap Capital U.S. ("BarCap") assurance engagement team. The selection consists of Collateralized Debt Obligations "CDOs", ["]Collateralized Synthetic Obligations CSOs" and Asset-Backed Securities "ABS" with subprime or Alt-A exposure, Negative Basis Trades wrapped with a CDS on

> monoline counterparty insurers, single name CDS on reference bonds that are included in the ABX indices and Commercial Loans priced to the Lehman commercial loan index. We were specifically asked to assist the BarCap engagement team in the audit of the valuation assertion of the selected financial instruments as of 12/31/07.

(Ex. 51 (PwC Pricing Memo) at PwC000540.)

55. As reflected in the PwC Pricing Memo, PwC reached the following conclusions on the referenced asset classes:

Asset Class	PwC Conclusion
Home Equity Loans	"[W]e are satisfied that [the] direction and magnitude of the movement in BarCap's prices is consistent with the ABX within a reasonable range of fair value. In addition, outliers we identified were appropriately explained by management and no individually material outliers or systematic bias was detected from our benchmarking procedures."
Negative Basis Trades	"[W]e are satisfied that [the] direction and magnitude of the movement in BarCap's prices is not inconsistent with the referenced indices index within a reasonable range of fair value. In addition, outliers we identified were appropriately explained by management and no individually material outliers or systematic bias was detected from our benchmarking process."
CDOs	"[W]e are satisfied that [the] direction and magnitude of the movement in BarCap's prices is consistent with the referenced indices index within a reasonable range of fair value. In addition, outliers we identified were appropriately explained by management and no individually material outliers or systematic bias was detected from our benchmarking procedures."
Super senior liquidity facilities	"[W]e are comfortable with the overall price level of the super senior High-Grade positions. For the mezzanine CDOs . . . the pricing levels are not inconsistent with the referenced indices index within a reasonable range of fair value. No systematic bias was detected from our benchmarking procedure."
Collateralized Synthetic Obligations	"[A] value near the deal notional . . . for these CSO does not appear unreasonable. No systematic bias was detected from our review."
CDS	"[W]e are satisfied that [the] direction and magnitude of the movement in BarCap's spread is consistent with the referenced indices index within a reasonable range of fair value. In addition, we are satisfied that the relationship between the CDS spreads holds across rating buckets and change in spreads over time does not appear unreasonable. No systematic bias was detected from our benchmarking procedures."

Asset Class	PwC Conclusion
European CLOs	"[W]e are satisfied that [the] direction and magnitude of the movement in BarCap's price is not inconsistent with the referenced spreads. From our review no systematic bias was detected from our benchmarking procedures."
CMBS	"[W]e are satisfied that [the] direction and magnitude of the movement in BarCap's price is not inconsistent with the referenced index. From our review no systematic bias was detected from our benchmarking procedures."

(Ex. 51 at PwC000556, 562, 570, 576, 581, 583-84, 586.)

56. Mr. Summa, the specialist who led PwC's Financial Analytics group in 2007 and 2008, testified that the Pricing Memo accurately reflects PwC's conclusions and that he "stand[s] by" each of them. (Ex. 48 (Summa Dep.) at 202-05, 211-12, 215-20.)

57. In addition, as reflected in the February 7 Critical Matter Memo, PwC's "engagement team recommended to the Barclays Capital Global engagement team in PwC London that we, assisted by PwC valuation experts, would perform additional audit procedures over the products within the U.S. credit business that have a material exposure to sub-prime. The purpose of the deep-dive was two-fold:

> 1 Develop a deeper understanding of the U.S. credit business so we could understand all the exposures to sub prime sufficient to allow us to scope our year-end audit effectively; and
>
> 2 Perform interim procedures over the product areas with material exposure to sub prime to identify any issues in advance of our year end audit."

(Ex. 52 at PwC000520.)

58. As also reflected in PwC's February 7 Critical Matter Memo, PwC met with PCG and "discussed each product are to gain an understanding of the exposure to subprime assets" and "perform[ed] substantive audit procedures over the valuation" of the following asset classes: ABS Secondary (ABS Home Equity), CDO Agency London (CDO), CDO Agency New York (ABS CDO, CDO, CDO CDS, CDS Indices, Home Equity, CDO Super Senior), GCD U.S.

(Negative Basis Trades), Risk Finance (CDO) and U.S. Workout Group (Bonds). (Ex. 52 at PwC000521-22.)

59. PwC stated in the February 7 Critical Matter Memo that the "credit markets in 2007 have experienced significant disruption due to [various] factors in the residential mortgage loan markets." (Ex. 52 at PwC000515.)

60. As reflected in the February 7 Critical Matter Memo, PwC also noted that "[b]ased on the state of the current markets . . . , [their] cumulative audit knowledge, [their] management update inquiries during the year and additional review procedures performed over losses reported in press releases in August (for the half-year) and in November (addressing rumours in the press that over $10bn of write-downs at Barclays Capital were imminent), the engagement team was aware that BarCap (defined above to mean BarCap U.S.) had significant exposure to the sub prime markets." (Ex. 52 at PwC000519-20.)

61. As reflected in the February 7 Critical Matter Memo, PwC found "[k]ey controls over the existence, completeness, accuracy and valuation of credit financial instruments carried at fair value." These controls included:

> PCG Price Testing Group – Price testing group (PT) verifies internal desk prices against external sources on a monthly basis. PT obtains the position inventory from the front office systems and perform[s] a completeness reconciliation, which has been tested by the assurance team with no exceptions. Price testing results are aggregated and reported to senior management, the completeness and accuracy of which has been tested by the assurance team without exception.

(Ex. 52 at PwC000518 (internal "control ref" numbers omitted).)

62. As reflected in the February 7 Critical Matter Memo, PwC also found that "interaction with [Barclays] Finance, PCG and the front-office has demonstrated the individuals

involved in the valuation of these instruments are competent and experienced." (Ex. 52 at PwC000530.)

63. As reflected in the February 7 Critical Matter Memo, PwC also found that "[t]here has been significant involvement from senior management, especially the global Barclays Capital CFO, Patrick Clackson and the global Head of PCG, Paul Copson. In addition, the global Barclays PLC CFO, Chris Lucas and global Barclays PLC Head of Risk, Robert LeBlanc, attended an all day meeting in the US to discuss the valuation process and results." (Ex. 52 at PwC000530.)

64. As reflected in the February 7 Critical Matter Memo, with respect to "credit financial instruments carried at fair value with sub prime exposure," PwC concluded "the magnitude and direction of the price changes were consistent with benchmark indices, there was no systematic bias in pricing detected and there was consistency in pricing within and among the various books." (Ex. 52 at PwC000530-31.)

65. As reflected in the February 7 Critical Matter Memo, with respect to "super senior [CDO] liquidity facilities," PwC concluded "[t]he cumulative loss rates used in the calculation of expected losses were in the middle of the range of loss rates published by market participants. The other assumptions are subjective but through [PwC's] audit procedures are believed to be reasonable," and that PwC "reviewed the accounting judgments made and believe the conclusions reached by management are appropriate." (Ex. 52 at PwC000531.)

66. As reflected in the February 7 Critical Matter Memo, with respect to "other credit financial instruments," PwC concluded that "[n]o material errors were detected in valuation from the results of [PwC's] cash and derivative independent price testing" and "[t]he overall price variations between front-office and PCG [were] immaterial." (Ex. 52 at PwC000531.)

67. PwC concluded overall that "[t]he fair value of credit financial instruments is within a range of acceptable fair values" and that "the impairment methodology appears reasonable." (Ex. 52 (February 7 Critical Matter Memo) at PwC000531-32.) Mr. Summa testified that he "stand[s] by" this conclusion. (Ex. 48 (Summa Dep.) at 241.)

68. PwC also prepared a memorandum dated February 12, 2008 (the "February 12 Critical Matter Memo") concerning the valuation of the following asset classes: "Sub prime residuals," "Sub prime whole loans," "Alt-A residuals and securities" and "Alt-A whole loans." (Ex. 53 at PwC005605.)

69. In addition, as reflected in the February 12 Critical Matter Memo, PwC's "engagement team recommended to the Barclays Capital Global engagement team in PwC London that we, assisted by PwC valuation experts, would perform additional audit procedures over the products within the U.S. mortgages business that have material exposure to sub prime and Alt-A. The purpose of the deep-dive was two-fold:

> 1 Develop a deeper understanding of the U.S. mortgages businesses so we could understand all the exposures to sub prime and Alt-A sufficient to allow us to scope our audit effectively; and
>
> 2 Perform interim procedures over the product areas with material exposure to sub prime and Alt-A to identify any issues in advance of our year end audit."

(Ex. 53 at PwC005604.)

70. PwC concluded: "the fair value for all product areas [described in the memorandum] is reasonable and supportable." (Ex. 53 (Feb. 12 Critical Matter Memo) at PwC005618.)

71. As reflected in the minutes of the February 13, 2008 meeting of the Audit Committee of Barclays' Board of Directors (the "February 13, 2008 Board Audit Committee

Minutes"), Phil Rivett, a PwC audit partner, attended the meeting and presented PwC's Board Audit Committee Report, dated February 13, 2008 (the "February 13, 2008 PwC Board Audit Committee Report"). (Ex. 54 (February 13, 2008 Board Audit Committee Minutes) at BARC-ADS-01602659-61); Ex. 55 (February 13, 2008 PwC Board Audit Committee Report) at BARC-ADS-1600171.)

72. As reflected in the February 13, 2008 Board Audit Committee Minutes, "PwC have carried out a significant amount of work in recent months on [ABS CDO Super Senior Liquidity Facilities] and have concluded that the Group's fair value estimates are in the mid range for such facilities. Management are considered to have implemented a reasonable and consistent methodology to determine the estimated fair value and impairment of the super senior positions." (Ex. 54 at BARC-ADS-01602659.)

73. As reflected in the February 13, 2008 Board Audit Committee Minutes, "Mr Rivett confirmed that PwC were now comfortable that they had a good understanding of the underlying portfolios" of "U.S. Sub-prime/Alt-A Whole Loans and Residuals." (Ex. 54 at BARC-ADS-01602659.)

74. PwC also "comment[ed] on matters arising from [their] financial statement audit including the impact of sub-prime on performance, impairment, fair value adjustments, provisions and [their] assessment of the appropriateness of accounting policies, significant estimates and judgements made by management." (Ex. 55 (February 13, 2008 PwC Board Audit Committee Report) at BARC-ADS-01600173.)

75. As reflected in the February 13, 2008 Board Audit Committee Minutes, the Committee was "overall satisfied that the Results Announcement [for 2007], subject to the revisions that had been discussed, presented a true and fair view and disclosed all material

matters for investors." (Ex. 54 at BARC-ADS-01602665.) As also reflected in those minutes, PwC's Mr. Rivett "commented that the key issues had all been discussed at the meeting. The level of write-downs and impairment was large but the process had been thorough and was well documented." (*Id*.)

76. As part of its 2007 audit, PwC analyzed whether disclosure of events after the December 31, 2007 balance sheet date was required under International Financial Reporting Standards. As part of this work, PwC U.S. performed a "subsequent events review" and issued a letter to PwC U.K. stating: "We confirm that we have performed a subsequent events review for Group [Barclays PLC] reporting purposes for BarCap U.S.* which has been audited by us. We confirm that we have not identified any subsequent events material to the Group." (Ex. 56 (Subsequent Events Letter) at PwC007241.)

77. Sir Richard Broadbent, Chairman of the Risk Committee of Barclays' Board of Directors, testified that PwC partner Mr. Rivett attended Risk Committee meetings. (Ex. 38 at 47-48.)

78. PwC also prepared a March 18, 2008 presentation for the Barclays USA Governance & Control Committee (the "PwC Governance Presentation"), which stated that "[Barclays] [m]anagement possessed the necessary resources and expertise to react appropriately to the current credit market in terms of designing new controls processes e.g. valuation of ABS CDO Super Senior liquidity facilities and valuation of sub prime whole loans." (Ex. 58 at BARC-ADS-01644890, at 8).)

79. The PwC Governance Presentation also stated that "the integrated audit for 2007 was successful and progressed largely to plan. This was a challenge given the issues in the credit

markets, which required considerable attention from management and PwC." (Ex. 58 at BARC-ADS-01644890, at 8).)

80. As reflected in the PwC Governance Presentation, PwC performed "detailed work" and concluded that Barclays' "provisions are adequate" for "US Sub prime and alt-a whole loans and residuals." (Ex. 58 at BARC-ADS-01644890, at 3.)

81. The 2007 20-F, filed on March 26, 2008, included PwC's Report of Independent Registered Public Accounting Firm to the Board of Directors and Shareholders of Barclays PLC (the "PwC Report"). (Ex. 1 at 147-48.)

82. The PwC Report stated:

> In our opinion, the accompanying Consolidated income statements and the related Consolidated balance sheets, Consolidated statements of recognised income and expense and, Consolidated statements of cash flows present fairly, in all material respects, the financial position of Barclays PLC (the 'Company') and its subsidiaries at 31st December 2007 and 31st December 2006 and the results of their operations and cash flows for each of the three years in the period ended 31st December 2007, in conformity with International Financial Reporting Standards (IFRSs) as issued by the International Accounting Standards Board. Also, in our opinion the Company maintained, in all material respects, effective internal control over financial reporting as of 31st December 2007, based on criteria established in Internal Control – Integrated Framework issued by the COSO.

(Ex. 1 (2007 20-F) at 147.)

83. The PwC Report also stated:

> We conducted our audits of these statements in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements, assessing the accounting principles used and significant estimates made by management, and evaluating the overall financial statement

> presentation. We believe that our audits provide a reasonable basis for our opinion.

(Ex. 1 (2007 20-F) at 148.)

84. In connection with the Series 5 ADS offering, PwC provided a "comfort letter" dated April 8, 2008 to Barclays and the underwriters of the offering. (Ex. 59 (Comfort Letter) at BARC-ADS-00804209-4214.)

85. PwC's April 8, 2008 comfort letter stated:

> Nothing came to our attention as a result of the foregoing procedures, however, that caused us to believe that: (i) At 29 February 2008, there was any change in share capital and decrease in shareholders' equity and minority interests and total assets, or increase in subordinated liabilities and total liabilities of the Issuer as compared with amounts shown in the 31 December 2007 audited consolidated balance sheet incorporated by reference in the Registration Statement; or (ii) for the period from 1 January 2008 to 29 February 2008, there were any decrease, as compared with the corresponding period in the preceding year, in profit before taxation and net interest income, except in all instances for changes, increases or decreases which the Registration Statement discloses have occurred or may occur and except that the unaudited consolidated balance sheet as of 29 February 2008, which we were furnished by the Issuer showed that share capital increased by 0.04% and total subordinated liabilities increased by 15.94% and total liabilities increased by 29.74% when compared with balances as at 31 December 2007. Profit before tax for the period from 1 January 2008 to 29 February 2008 decreased by 9.93% compared with the corresponding period in the previous year.

(Ex. 59 at BARC-ADS-00804212.)

86. PwC's April 8, 2008 comfort letter also stated: "In our opinion, the consolidated financial statements audited by us and incorporated by reference in the Registration Statement comply as to form in all material respects with the applicable accounting requirements of the Act and the Securities Exchange Act of 1934, as amended, and the related rules and regulations adopted by the SEC." (Ex. 59 at BARC-ADS-00804210.)

IV. Post-Offering Events

87. Dr. Allan Kleidon, one of Barclays' experts, performed an event study analyzing publicly available information and Series 5 ADS price changes during the period April 8, 2008 (the date of the Series 5 ADS offering) through March 24, 2009 (the filing date of Barclays' Form 20-F for the year-ended December 31, 2008). (Ex. 31 (12/15/15 Kleidon Report) ¶ 3.) Dr. Kleidon's event study used a 95% confidence interval (equivalently, a 5% significance level) which is standard for event studies. (*Id.* ¶ 44.)

88. As summarized in the chart below, there were 10 days during Dr. Kleidon's event study analysis period on which the residual returns of the Series 5 ADS were statistically significant at a 95% confidence interval; a residual return is the price movement after controlling for factors unrelated to market and industry effects. (Ex. 31 (12/15/15 Kleidon Report) ¶¶ 43-44, 50.)

Date	Previous Day Closing Price	Closing Price	Change	Statistically Significant?
7/14/2008	$23.35	$20.85	($2.50)	Yes
7/18/2008	$22.90	$22.31	($0.59)	Yes
7/21/2008	$22.31	$22.12	($0.19)	Yes
9/11/2008	$21.72	$20.06	($1.66)	Yes
9/12/2008	$20.06	$20.90	$0.84	Yes
10/13/2008	$9.10	$13.87	$4.77	Yes
1/21/2009	$13.23	$10.35	($2.88)	Yes
1/23/2009	$9.52	$8.02	($1.50)	Yes
1/26/2009	$8.02	$12.60	$4.58	Yes
3/9/2009	$6.11	$4.95	($1.16)	Yes

(Ex. 31 (12/15/15 Kleidon Report) ¶¶ 5, 62-64, 69-74, 91-93, 102; Ex. 15 (Series 5 ADS Price Chart).)

89. Dr. Kleidon's event study also analyzed events described in the section of the Second Consolidated Amended Complaint ("SCAC") entitled "Post-Offering Events." For purposes of this analysis, Dr. Kleidon analyzed residual returns on the dates of these events, as

well as on March 24, 2009 (the filing date of Barclays' 2008 Form 20-F)—11 dates in total. As summarized in the chart below, none of these 11 dates had statistically significant residual returns at a 95% confidence interval, except for October 13, 2008, on which (as shown in the chart above) the Series 5 ADS price *increased* from the previous day. (Ex. 31 (12/15/15 Kleidon Report) ¶¶ 43-44, 50.)

Date	**Previous Day Closing Price**	**Closing Price**	**Change**	**Statistically Significant?**
5/15/2008	$25.17	$25.23	$0.06	No
6/25/2008	$24.80	$24.96	$0.16	No
8/7/2008	$24.69	$24.46	($0.23)	No
10/13/2008	$9.10	$13.87	$4.77	Yes
10/31/2008	$16.25	$16.12	($0.13)	No
11/18/2008	$16.99	$15.56	($1.43)	No
11/24/2008	$12.50	$13.44	$0.94	No
1/13/2009	$19.23	$18.29	($0.94)	No
2/9/2009	$11.69	$13.45	$1.76	No
2/17/2009	$11.95	$10.00	($1.95)	No
3/24/2009	$11.13	$11.38	$0.25	No

(Ex. 31 (12/15/15 Kleidon Report) ¶¶ 5, 52-61, 65-68, 71-90, 94-101, 103-06; Ex. 15 (Series 5 ADS Price Chart).)

90. On three of these dates—May 15, June 25 and August 7, 2008—Barclays disclosed information that the SCAC asserts had been misstated in or omitted from the Series 5 ADS offering materials. The residual returns were not statistically significant at a 95% confidence interval on any of these three dates; on two of the dates, the Series 5 ADS closed at a higher price than on the prior day, and on the third date, it closed 23 cents lower. (SCAC ¶¶ 211, 214-15; Ex. 31 (12/15/15 Kleidon Report) ¶¶ 44, 50, 52-61, 65-68; Ex. 15 (Series 5 ADS Price Chart).)

91. **5/15/08 Disclosure**. On May 15, 2008, Barclays filed a Form 6-K with the SEC containing an Interim Management Statement (the "5/15/08 Disclosure"). (Ex. 7.)

92. The 5/15/08 Disclosure reported, for Barclays Capital, net losses of £1 billion "relating to credit market turbulence." (Ex. 7 at 3.)

93. The Series 5 ADS closing price on May 15, 2008 was $25.23, an increase of $0.06 over the closing price of $25.17 on May 14, 2008. (Ex. 15 (Series 5 ADS Price Chart).) This price change was not statistically significant at a 95% confidence interval. (*See* Ex. 31 (12/15/15 Kleidon Report) ¶¶ 44, 50, 52-55.)

94. Barclays' profit before tax for the first quarter of 2008 was £1.194 billion. (Ex. 14 (Barclays Form 6-K, dated May 7, 2009) at 4.)

95. **6/25/08 Disclosure**. On June 25, 2008, Barclays filed a 6-K with the SEC announcing "a Share Issue to raise approximately £4.5 billion through the issue of 1,577 million New Ordinary Shares." (Ex. 8 at 2.)

96. The Series 5 ADS closing price on June 25 was $24.96, an increase of $0.16 over the closing price of $24.80 on June 24. (Ex. 15 (Series 5 ADS Price Chart).) This change was not statistically significant at a 95% confidence interval. (*See* Ex. 31 (12/15/15 Kleidon Report) ¶¶ 44, 50, 56-61.)

97. **8/7/08 Disclosure**. On August 7, 2008, Barclays filed a Form 6-K with the SEC containing its Interim Results for the period ended June 30, 2008 (the "8/7/08 Disclosure"). (Ex. 9.)

98. The 8/7/08 Disclosure reported, for Barclays Capital, "a further £1bn of net losses in the second quarter due to credit market dislocation, in addition to the £1bn already announced in the first quarter"—net losses £1.979 billion for the first half of 2008. (Ex. 9 at 6.)

99. The 8/7/08 Disclosure also reported the notional amount of monoline insurance as of June 30, 2008 as follows:

			As at 30.06.2008		
Exposure by Credit Rating of Monoline Insurer	**Notional**	**Fair Value of Underlying Asset**	**Gross Exposure**	**Total Write-downs**	**Net Exposure**
	£m	£m	£m	£m	£m
AAA/AA	10,738	9,587	1,151	(98)	1,053
A/BBB	5,592	4,193	1,399	(242)	1,157
Non-investment grade	5,151	4,684	467	(93)	374
Total	**21,481**	**18,464**	**3,017**	**(433)**	**2,584**

			As at 31.12.07		
Exposure by Credit Rating of Monoline Insurer	**Notional**	**Fair Value of Underlying Asset**	**Gross Exposure**	**Total Write-downs**	**Net Exposure**
	£m	£m	£m	£m	£m
AAA/AA	**21,573**	**20,179**	**1,394**	**(59)**	**1,335**

(Ex. 9 at 26.)

100. The Series 5 ADS closing price on August 7, 2008 was $24.46, a decrease of $0.23 from the closing price of $24.69 on August 6, 2008; this change was *not* statistically significant at a 95% confidence interval. (Ex. 15 (Series 5 ADS Price Chart); Ex. 31 (12/15/15 Kleidon Report) ¶¶ 44, 50, 65-68.)

101. The Series 5 ADS closing price was above $24 for the remainder of August and into September 2008. During the period from September 2008 to March 2009, Series 5 ADS closing prices declined and reached a low of $4.95 on March 9, 2009. (Ex. 15 (Series 5 ADS Price Chart).)

102. On September 7, 2008, the Federal Housing Finance Agency placed Fannie Mae and Freddie Mac into government conservatorship. (Ex. 18 ("U.S. Seizes Fannie and Freddie," *CNN Money*, Sept. 7, 2008).)

103. On September 15, 2008, Lehman Brothers filed for Chapter 11 bankruptcy protection. Also on September 15, 2008, Bank of America announced that it would purchase Merrill Lynch for $29 per share "to avert a deepening financial crisis." (Ex. 19 ("Lehman

Brothers collapse stuns global markets," *CNN*, Sept. 15, 2008); Ex. 20 ("Bids To Halt Financial Crisis Reshape Landscape of Wall St.," *New York Times*, Sept. 15, 2008).)

104. On September 25, 2008, the Office of Thrift Supervision seized Washington Mutual Bank and placed it into FDIC receivership. On the same day, J.P. Morgan purchased the assets of Washington Mutual from the FDIC. (Ex. 21 ("Government Seizes WaMu and Sells Some Assets," *New York Times*, Sept. 25, 2008).)

105. On October 3, 2008, rather than complete the transaction with Citigroup, Wachovia announced that it had agreed to be acquired by Wells Fargo. (Ex. 22 ("Wells Fargo Swoops In," *New York Times*, Oct. 3, 2008).)

106. On October 8, 2008 (before market opening), the U.K. government announced that it was planning to inject approximately £50 billion into the U.K. banking system. Barclays' CEO announced that the Company had not requested capital from the U.K. government and had no reason to do so. (Ex. 23 ("U.K. to Inject about $87 Billion in Country's Banks (Update1)," *Bloomberg*, Oct. 8, 2008.) Also on October 8, 2008, the U.K. government introduced higher capital requirements as part of the government's attempt to stabilize the financial system. (Ex. 24 ("Rescue Plan for UK Banks Unveiled," *BBC*, Oct. 8, 2008).)

107. On October 13, 2008, Barclays issued a press release announcing that, rather than accept U.K. government funds, it would seek to raise over £6.5 billion of Tier 1 capital through the issuance of new shares to investors, and that it would not pay a final dividend for its ordinary shares in 2008. (Ex. 10 ("Update on Capital, Dividend and Current Trading," Barclays Press Release, Oct. 13, 2008.) There were also reports on October 13 that the U.K. government would make capital investments, totaling £37 billion, in a number of U.K. financial institutions including RBS, HBOS, and Lloyds (Ex. 25 ("UK banks receive £37bn bail-out," *BBC News*,

October 13, 2008).) That same day, the U.S. Treasury Department also announced that it was finalizing plans to inject capital into banks as part of TARP. (Ex. 26 ("Europe Raises Stakes in Bank Bailout Race," *Wall Street Journal*, Oct. 13, 2008).)

108. The Series 5 ADS closing price on October 13 was $13.87, an increase of $4.77 from the closing price of $9.10 on October 10 (the previous trading day); this change was statistically significant at a 95% confidence interval. (Ex. 15 (Series 5 ADS Price Chart); Ex. 31 (12/15/15 Kleidon Report) ¶¶ 44, 50, 71-74).)

109. On January 26, 2009, a joint open letter by Barclays' Chairman (Mr. Agius) and CEO (Mr. Varley) stated that Barclays would report a positive pre-tax profit for 2008 (net of write-downs) and that gross write-downs would be approximately £8 billion (£5 billion net) for 2008 for various assets classes. The open letter stated: "Also included in the 2008 results are some £8bn of gross write downs (£5bn net of own credit, hedging and attributable income) relating to credit market exposures in Barclays Capital. This amount is arrived at by applying year end valuations and marks to market. It is derived on a consistent basis with, and includes, the comparable numbers for the first half of 2008 which were £3.3bn gross and £2bn net. In the interests of clarity and transparency, we are reporting these numbers on a gross and net basis. We will provide extensive details as to the level of write downs and marks by asset class when we report our results on 9th February 2009." (Ex. 11 ("Open Letter from Marcus Agius and John Varley," Barclays Press Release, Jan. 26, 2009).)

110. On February 9, 2009, Barclays released its financial results for the year ended December 31, 2008, which disclosed Barclays Capital's 2008 gross write-downs in the amount of £8.053 billion and provided 2007 gross write-downs (£2.999 billion) on a comparative basis:

"Net income included gross losses of £8,053m (2007: £2,999m) due to continuing dislocation in the credit markets." (Ex. 12 at 22.)

111. The Series 5 ADS closing price on February 9, 2009 was $13.45, an increase of $1.76 from the closing price of $11.69 on February 6 (the previous trading day); this change was not statistically significant at a 95% confidence interval. (Ex. 15 (Series 5 ADS Price Chart); Ex. 31 (12/15/15 Kleidon Report) ¶¶ 44, 50, 94-97.)

112. On March 24, 2009, Barclays filed its 2008 Annual Report on Form 20-F (the "2008 20-F"). Like the February 9, 2009 results announcement, Barclays' 2008 20-F also disclosed Barclays Capital's 2008 gross write-downs in the amount of £8.053 billion and provided 2007 gross write-downs (£2.999 billion) on a comparative basis: "Net income included gross losses of £8,053m (2007: £2,999m) due to continuing dislocation of the credit markets." (Ex. 13 (2008 20-F) at 45.)

113. The Series 5 ADS closing price on March 24, 2009 was $11.38, an increase of $0.20 from the closing price of $11.13 on March 23; this change was not statistically significant at a 95% confidence interval. (Ex. 15 (Series 5 ADS Price Chart); Ex. 31 (12/15/15 Kleidon Report) ¶¶ 44, 50, 103-06.)

114. Series 5 ADS closing prices increased thereafter and returned to the original offering price of $25 on January 14, 2010. (Ex. 15 (Series 5 ADS Price Chart).)

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New York, New York

Respectfully submitted,

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