

**IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE**

H&N MANAGEMENT GROUP, INC. & AFF  
COS FROZEN MONEY PURCHASE PLAN,

Plaintiff,

v.

ROBERT M. COUCH, MORRIS A. DAVIS,  
RANDY E. DOBBS, JOHN ERICKSON,  
SAMUEL A. FLAX, LARRY K. HARVEY,  
GARY KAIN, PRUE LAROCCA, ALVIN N.  
PURYEAR, MALON WILKUS, ACAS, LLC,  
ARES CAPITAL CORP., and IVY HILL  
ASSET MANAGEMENT, L.P.,

Defendants,

and

AGNC INVESTMENT CORP., F/K/A,  
AMERICAN CAPITAL AGENCY CORP.,  
a Delaware corporation,

Nominal Defendant.

C.A. No. 12847-VCMR

**AMENDED NOTICE OF PENDENCY OF DERIVATIVE ACTION,  
PROPOSED SETTLEMENT OF DERIVATIVE ACTION,  
SETTLEMENT HEARING, AND RIGHT TO APPEAR**

***The Court of Chancery of the State of Delaware authorized this Notice.***

***This is not a solicitation from a lawyer.***

TO: ALL PERSONS OR ENTITIES WHO OR WHICH HELD SHARES OF AGNC INVESTMENT CORP., F/K/A AMERICAN CAPITAL AGENCY CORP. (“AGNC” OR THE “COMPANY”) STOCK AS OF THE CLOSE OF BUSINESS ON JUNE 24, 2019 (“CURRENT AGNC STOCKHOLDERS”).

The purpose of this Notice is to inform you of: (i) the pendency of the above-captioned stockholder derivative action (the “Action”), which was brought by plaintiff H&N Management Group, Inc. & AFF Cos Frozen Money Purchase Plan (“Plaintiff”) on behalf of and for the benefit of AGNC in the Court of

Chancery of the State of Delaware (the “Court”); (ii) a proposed settlement of the Action (the “Settlement”) and related matters and claims as to certain parties, subject to Court approval, as provided in the Stipulation and Agreement of Compromise, Settlement and Release, dated as of June 11, 2019 (the “Stipulation”); (iii) the hearing that the Court will hold on October 15, 2019, to determine whether to approve the Settlement and to consider the application by Plaintiff’s Counsel<sup>1</sup> for an award of attorneys’ fees, litigation expenses, and an incentive fee for Plaintiff (the “Settlement Hearing”); and (iv) Current AGNC Stockholders’ rights with respect to the proposed Settlement and Plaintiff’s Counsel’s application for attorneys’ fees, litigation expenses, and an incentive fee for Plaintiff.

**PLEASE READ THIS NOTICE CAREFULLY AND IN ITS ENTIRETY.  
YOUR RIGHTS WILL BE AFFECTED BY THE PROPOSED SETTLEMENT  
OF THIS ACTION AND RELATED MATTERS AND CLAIMS.**

The Stipulation was entered into as of June 11, 2019, between and among (i) Plaintiff; (ii) Robert M. Couch, Morris A. Davis, Randy E. Dobbs, Larry K. Harvey, Gary Kain, Prue Larocca, John Erickson, Samuel A. Flax, Alvin N. Puryear and Malon Wilkus (collectively, the “Individual Releasees”); (iii) Ares Capital Corporation (“Ares”), Ivy Hill Asset Management L.P. (“Ivy Hill”) and ACAS, LLC (together with Ares, and Ivy Hill, the “American Capital Releasees”); and (iv) nominal defendant AGNC (together with Plaintiff, the Individual Releasees, and the American Capital Releasees, the “Settling Parties”), subject to the approval of the Court pursuant to Delaware Chancery Court Rule 23.1.

As described in paragraph 42 below, the Settlement provides for a cash payment of \$35,500,000.00, of which: (i) \$24,000,000.00 shall be paid on behalf of the Individual Releasees and Peter Federico (together with the Individual Releasees, the “Individual Maryland Releasees”); and (ii) \$11,500,000.00 shall be paid on behalf of the American Capital Releasees (the “Settlement Payment”). The Settlement Payment will, after deducting any Attorneys’ Fee and Expense Award to Plaintiff’s Counsel, any Incentive Award to Plaintiff, and costs to provide this Notice to AGNC stockholders, be paid to the Company.

If you are a nominee who held AGNC stock for the benefit of another, please read the section below entitled “NOTICE TO PERSONS OR ENTITIES HOLDING RECORD OWNERSHIP ON BEHALF OF OTHERS.”

Please Note: Because the Action was brought as a derivative action, which means that it was brought on behalf of and for the benefit of the Company, the benefits from the Settlement will go to the Company. Individual AGNC stockholders will not receive any direct payment from the Settlement. Also, please note that there is no proof of claim form for stockholders to submit in connection with this Settlement, and stockholders are not required to take any action in response to this Notice.

**WHAT IS THE PURPOSE OF THIS NOTICE?**

1. The purpose of this Notice is to explain the Action, the terms of the Settlement, and how the Settlement affects AGNC stockholders’ legal rights.

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<sup>1</sup> Plaintiff’s Counsel consist of Labaton Sucharow LLP, Friedman Oster & Tejtel PLLC, Quinn Emanuel Urquhart & Sullivan, LLP, and Goldberg Law, P.C. The only attorneys’ fees to be paid in resolving the Settled Defendant Claims are those approved by the Court in the steps described herein.

2. In a derivative action, one or more persons or entities who are current stockholders of a corporation sue on behalf of and for the benefit of the corporation, seeking to enforce the corporation's legal rights. In this case, Plaintiff, an AGNC stockholder, has filed suit against the Individual Releasees and the American Capital Releasees on behalf of and for the benefit of AGNC.

3. The Court has scheduled a Settlement Hearing to consider the fairness, reasonableness, and adequacy of the Settlement and the application by Plaintiff's Counsel for an Attorneys' Fee and Expense Award and the Incentive Award. See paragraphs 52-53 below for details about the Settlement Hearing, including the location, date, and time of the hearing.

WHAT IS THIS CASE ABOUT? WHAT HAS HAPPENED SO FAR?
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THE FOLLOWING DESCRIPTION OF THE ACTION AND THE SETTLEMENT HAS BEEN PREPARED BY COUNSEL FOR THE PARTIES. THE COURT HAS MADE NO FINDINGS WITH RESPECT TO SUCH MATTERS, AND THIS NOTICE IS NOT AN EXPRESSION OR STATEMENT BY THE COURT OF FINDINGS OF FACT.

4. AGNC is a publicly traded real estate investment trust ("REIT") that invests on a leveraged basis predominately in residential agency mortgage-backed securities.

5. AGNC commenced operations on May 20, 2008, following an initial public offering organized by an affiliate of publicly traded private equity firm American Capital, Ltd. ("American Capital"), now known as ACAS, LLC.

6. Between July 29, 2011 and June 30, 2016, AGNC's day-to-day operations were handled by an external manager, American Capital AGNC Management, LLC (the "Manager"), which American Capital indirectly owned through intermediate companies American Capital Asset Management, LLC ("ACAM") and American Capital Mortgage Management, LLC ("ACMM"). Until August 3, 2011, ACMM was known as American Capital Agency Management, LLC.

7. AGNC's relationship with the Manager was governed by a management agreement entered into on May 20, 2008, and subsequently amended on July 29, 2011 and September 30, 2011 (the "Management Agreement"). The initial term of the Management Agreement was three years, ending on May 20, 2011. Thereafter, the Management Agreement would automatically renew each year for additional one-year terms unless the Company, by vote of a majority of its independent directors, or the Manager elected not to renew it.

8. The Management Agreement required AGNC to pay monthly management fees to the Manager in exchange for the services set forth in the Management Agreement.

9. The Management Agreement provided that AGNC must pay a termination fee if AGNC terminated the Management Agreement without cause.

10. In late 2015, American Capital announced that it would undertake a full strategic review of alternatives for maximizing shareholder value, including a potential sale of American Capital or its various business lines in whole or in part.

11. In March 2016, Horace Clark, who is the sole trustee of Plaintiff, made a demand pursuant to 8 *Del. C.* § 220 to inspect AGNC's books and records relating to, among other things, the decisions not to terminate the Management Agreement for the years 2014, 2015, and 2016, which decisions occurred in 2013, 2014, and 2015 (collectively, the "Renewals"), and the Internalization.

12. On May 23, 2016, AGNC announced that it had entered into a transaction agreement pursuant to which AGNC would acquire ACMM, and AGNC would become an internally-managed REIT (the "Internalization"). Also on May 23, 2016, Ares and American Capital announced that they had entered into a definitive merger agreement for a transaction separate from but related to the Internalization (the "American Capital Acquisition"). The American Capital Acquisition was completed on January 3, 2017. Pursuant to the American Capital Acquisition, ACAM was merged with and into Ivy Hill, with Ivy Hill as the surviving entity and a wholly-owned portfolio company of Ares.

13. On July 1, 2016, AGNC completed the Internalization.

14. On July 6, 2016, Plaintiff served a demand pursuant to 8 *Del. C.* § 220 (the "Section 220 Demand") to inspect AGNC's books and records relating to, among other things, the Renewals and the Internalization.

15. On July 13, 2016, AGNC responded to the Section 220 Demand. AGNC's response argued that Plaintiff failed to state a proper purpose for seeking books and records. AGNC offered to produce a limited subset of the requested books and records relating to the Renewals but refused to produce, *inter alia*, any books and records relating to the Internalization.

16. On July 19, 2016, Plaintiff filed a Verified Complaint Pursuant to 8 *Del. C.* § 220 to Compel Inspection of Books and Records (the "Section 220 Complaint") in this Court, commencing the action captioned *H&N Management Group, Inc. and AFF COS Frozen Money Purchase Plan v. American Capital Agency Corp.*, 12573-VCMR (Del. Ch.) (the "Section 220 Action"). Through the Section 220 Action, Plaintiff sought to compel AGNC to produce all materials requested in Plaintiff's Section 220 Demand.

17. On July 29, 2016, the Court entered a scheduling order in the 220 Action which provided, *inter alia*, for a trial to occur on October 21, 2016. On August 8, 2016, in accordance with the terms of the scheduling order, AGNC filed an Answer in response to the Section 220 Complaint. Thereafter, Plaintiff and AGNC served discovery requests in the Section 220 Action, including requests for production and interrogatories.

18. On September 1, 2016, Plaintiff and AGNC reached an agreement to settle the Section 220 Action and filed a Stipulation of Dismissal dismissing the Section 220 Action. Plaintiff and AGNC's settlement of the Section 220 Action required AGNC to produce certain books and records in response to Plaintiff's Section 220 Demand. Accordingly, on September 29, 2016, AGNC produced the books and records it had agreed to produce in order to settle the Section 220 Action.

19. Pursuant to its review of the books and records produced by AGNC to settle the Section 220 Action, Plaintiff determined to pursue plenary litigation and filed this Action on October 21, 2016. On December 16, 2016, Plaintiff filed a Verified Amended Stockholder Derivative Complaint (the "Amended Complaint") derivatively on behalf of nominal defendant AGNC, which asserted claims against the Individual Releasees.

20. The Amended Complaint alleged, among other things, that the Individual Releasees breached their fiduciary duties owed to AGNC, including the duties of care and loyalty, and any subsidiary duties, by (i) allowing AGNC's Management Agreement to renew for the years 2014, 2015, and 2016; (ii) acquiring ACMM in 2016 and internalizing the management of AGNC's portfolio; and (iii) committing "waste" in effecting the Internalization. The Amended Complaint alleged that the Individual Releasees caused AGNC to overpay for the management of AGNC and for the internalization of its management, and that the Individual Releasees did not undertake an informed, good-faith analysis in connection with these corporate decisions, in part because (i) conflicts of interest allegedly existed between AGNC on the one hand and American Capital on the other, and (ii) AGNC was allegedly subsidizing the management of MTGE Investment Corp., another REIT managed by an affiliate of AGNC's Manager.

21. On October 25, 2016, the United States District Court for the District of Maryland consolidated two derivative complaints filed on September 21 and September 30, 2016, respectively, by purported AGNC stockholders (the "Maryland Plaintiffs"), captioned *In re AGNC Investment Corp.*, No. 8:16-cv-3215-TDC (which was consolidated with Civil Action No. 8:16-cv-3310-TDC) (the "Maryland Action"). The complaints, which were not based on any investigation under 8 *Del. C.* § 220 and borrowed substantially from the complaint filed in the Section 220 Action, were based on the same underlying facts and circumstances as the Action.

22. On August 1, 2017, following briefing and oral argument, the Court issued a Letter Opinion denying the Individual Releasees' motion to dismiss the Amended Complaint and allowing Plaintiff to proceed derivatively on behalf of the Company.<sup>2</sup>

23. On July 3, 2018, the Maryland District Court granted in part the Individual Maryland Releasees' motion to dismiss the consolidated complaint in the Maryland Action, including the claims against ACAM, and dismissed the Maryland Plaintiffs' claim asserting violations of Section 14(a) of the Securities and Exchange Act of 1934. On July 17, 2018, the Maryland Plaintiffs moved for leave to file an amended complaint.

24. On October 11, 2018, Plaintiff filed a Verified Second Amended Stockholder Derivative Complaint in the Action (the "Second Amended Complaint"). In addition to the claims alleged in the Amended Complaint, the Second Amended Complaint asserted claims for unjust enrichment and aiding and abetting the Individual Releasees' alleged breaches of fiduciary duty against two new defendants as the alleged successors to the interests and liabilities of American Capital and its wholly-owned subsidiary ACAM: (i) Ares, and (ii) Ivy Hill.

25. On November 14, 2018, Plaintiff filed a Verified Third Amended Stockholder Derivative Complaint (the "Third Amended Complaint"), which added ACAS, LLC—a successor entity to American Capital—as a defendant in connection with its unjust enrichment and aiding and abetting claims against Ares and Ivy Hill.

26. In addition to the allegations detailed above, the Third Amended Complaint alleges, *inter alia*, that the termination fee in the Management Agreement was unlawful and unenforceable under the Investment Advisers Act of 1940 and as an improper penalty clause. Plaintiff alleges that the American Capital Releasees, as successors-in-interest to American Capital and ACAM (i) abused their positions of

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<sup>2</sup> On October 9, 2017, Plaintiff also filed a Motion to Strike Affirmative Defenses. Plaintiff subsequently withdrew this motion.

trust and authority to unjustly enrich themselves by extracting excessive fees from AGNC and causing AGNC to pay an exorbitant amount for the Internalization; and (ii) are liable for the harm caused by the purported breaches of fiduciary duty that American Capital and ACAM aided and abetted. On December 6, 2018, the American Capital Releasees filed a motion to dismiss. That motion has been fully briefed, was argued before the Court on February 21, 2019, and is currently pending before the Court.

27. Fact discovery in this Action has been extensive and is complete. Plaintiff served document demands and interrogatories on the Parties and subpoenas on numerous non-parties. In connection with Plaintiff's discovery efforts in this Action, Plaintiff filed on September 21, 2018 a Motion to Compel Production of Documents. In total, Plaintiff received and reviewed nearly 140,000 documents, totaling more than 3,500,000 pages. The Parties also conducted sixteen (16) party and non-party depositions, including a full-day deposition of a representative of Plaintiff. The Maryland Plaintiffs were not invited to, and did not participate in, Plaintiff's discovery efforts in the Action in any fashion. Among other things, the Maryland Plaintiffs were not invited to, and no representative for the Maryland Plaintiffs sought to participate in, or attend, any of the sixteen (16) depositions taken in the Action.

28. Discovery in the Action, including deposition testimony and the review, production, and analysis of documents, has allowed the Parties to understand the strengths and weaknesses of the claims asserted in the Third Amended Complaint.

29. On January 8, 2019, the Parties participated in an in-person mediation before Michael D. Young of JAMS (the "Mediator"). Thereafter, with the assistance of the Mediator, counsel for Plaintiff, the Individual Releasees, and the Company continued to engage in extensive arm's-length discussions and negotiations concerning a possible partial settlement of the Action.

30. On January 23, 2019, the Maryland District Court heard oral argument on the Maryland Plaintiffs' motion for leave to file an amended complaint. On February 6, 2019, the Maryland District Court granted in part and denied in part the Maryland Plaintiffs' motion, and ordered that the Maryland Plaintiffs' Section 14(a) claim be stricken. The operative complaint in the Maryland Action filed on February 12, 2019, which is the subject of a pending motion to strike by the Individual Maryland Releasees, alleges claims that are: (i) substantively identical to those alleged by Plaintiff in the Amended Complaint (and substantially borrows from the Amended Complaint) and (ii) based on the same factual predicate and operative facts as this Action.

31. Near the completion of fact discovery, on March 29, 2019, the Individual Releasees and Plaintiff attended another in-person mediation session with the Mediator.

32. Following further negotiations, the Mediator made a proposal to settle the Action as to the Individual Releasees for a cash payment to the Company of \$24 million in exchange for a full and complete release of all claims against the Individual Releasees.

33. On May 3, 2019, following further discussions, including with the Mediator, Plaintiff, the Individual Releasees, and AGNC agreed upon a binding term sheet memorializing the principal terms of a partial settlement of the Action. The Maryland Plaintiffs were not invited to, and did not participate in, either mediation session or in any of the settlement negotiations between or among Plaintiff, the Individual Releasees, and AGNC.

34. Expert discovery commenced on May 6, 2019. That day, Plaintiff served the expert reports of its three testifying experts: (i) William H. Purcell, (ii) Douglas J. Scheidt, and (iii) Kevin C.H. Chiang (collectively, Plaintiff's Experts). Also that day, the American Capital Releasees served the expert reports of Richard H. Lee and Paul Habibi.

35. During the course of expert discovery, and with the assistance of the Mediator, counsel for Plaintiff and counsel for the American Capital Releasees engaged in extensive arm's-length discussions and negotiations concerning a settlement of the remaining claims in the Action.

36. On May 21, 2019, Plaintiff and the American Capital Releasees agreed to settle the claims as to the American Capital Releasees for a cash payment to the Company of \$11.5 million in exchange for a full and complete release of all claims against the American Capital Releasees, which would resolve all remaining claims in the Action. The Maryland Plaintiffs were not invited to, and did not participate in, settlement negotiations between Plaintiff and the American Capital Releasees.

37. Plaintiff represents that it has owned at all relevant times—and continues to own—shares of AGNC stock, for which proof of ownership was proffered.

38. Plaintiff and Plaintiff's Counsel, having thoroughly considered the facts and law underlying the Action, and based upon their investigation and prosecution of the Action and the two mediation sessions and extensive follow-on negotiations that led to the Settlement, and after weighing the risks of continued litigation, have determined that it is in the best interests of the Company and its stockholders that the Action and all claims be fully and finally settled in the manner and upon the terms and conditions set forth in the Stipulation, and that the terms and conditions therein are fair, reasonable, and adequate to the Company and its stockholders.

39. Each of the Individual Releasees and the American Capital Releasees has denied, and continues to deny, that he, she or it committed any breach of duty, breached any other law, aided and abetted any breach, was unjustly enriched, or engaged in any of the wrongful acts alleged or that could have been alleged in the Action, expressly maintains that he, she or it diligently and scrupulously complied with his or her fiduciary and other legal duties, to the extent such duties exist, and further believes that the Action is without merit, and is entering into the Settlement solely to eliminate the burden, expense, and uncertainties inherent in further litigation.

40. In connection with settlement discussions and negotiations leading to the Settlement, counsel for the Parties did not discuss the appropriateness or amount of any application by counsel for Plaintiff for an award of attorneys' fees and expenses or an incentive award.

41. On June 24, 2019, the Court entered the Scheduling Order in connection with the Settlement which, among other things, authorized this Notice to be provided to Current AGNC Stockholders and scheduled the Settlement Hearing to consider whether to grant final approval of the Settlement.

WHAT ARE THE TERMS OF THE SETTLEMENT?
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42. In consideration of the full compromise, settlement, and release of all Released Defendant Claims (defined in paragraph 45 below) against the Released Defendant Parties and the Released AGNC Parties (defined in paragraph 45 below) and the dismissal with prejudice of the Action

and the Maryland Action as to the Individual Releasees, the Individual Maryland Releasees, and the American Capital Releasees, the Parties have agreed that payment to the Company on behalf of the Individual Releasees of \$24,000,000 and on behalf of the American Capital Releasees of \$11,500,000, for a total of \$35,500,000, minus any Attorneys' Fee and Expense Award and any Incentive Award ordered by the Court, and minus the Settlement Notice Costs, shall be paid into a settlement account designated and controlled by the Company. The Settlement Payment shall be made no later than fifteen (15) business days after the later of (i) the entry of Judgment approving the Settlement, and such order becoming final after exhaustion of all appeals or petitions for review; **and** (ii) dismissal with prejudice of the Maryland Action, and such order becoming final after exhaustion of all appeals or petitions for review.

WHAT ARE THE PARTIES' REASONS FOR THE SETTLEMENT?
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43. Plaintiff has stated as follows: Plaintiff, through Plaintiff's Counsel, has conducted an extensive investigation and discovery relating to the claims and underlying events and transactions alleged in the Action. Plaintiff's Counsel have analyzed the evidence adduced during their investigation and discovery and have also researched the applicable law with respect to the claims asserted in the Action and the potential defenses thereto. In negotiating and evaluating the terms of the Settlement, Plaintiff and Plaintiff's Counsel considered certain legal and factual arguments advanced by the Individual Releasees and American Capital Releasees in defending against Plaintiff's claims and the expense, time, and risk of pursuing their claims against the Individual Releasees and American Capital Releasees through trial and appeals. While Plaintiff continues to believe strongly that its claims may have merit, the Individual Releasees and American Capital Releasees have argued that they are not subject to liability or damages and have raised certain non-frivolous arguments in their defense. In light of the substantial monetary recovery achieved by the Settlement, Plaintiff and Plaintiff's Counsel have determined that the Settlement is fair, reasonable, adequate, and in the best interests of the Company and its stockholders. The Settlement provides substantial immediate benefits to the Company without the risk that continued litigation could result in obtaining similar or lesser relief for the Company after continued extensive and expensive litigation, including trial and the appeals that were likely to follow.

44. The Individual Releasees and American Capital Releasees have stated as follows: The Individual Releasees and American Capital Releasees, to avoid the costs, disruption, and distraction of further litigation, and without admitting the validity of any allegations made in the Action, or any liability with respect thereto, have concluded that it is desirable that the claims against them be settled on the terms reflected in the Stipulation. Each of the Individual Releasees and American Capital Releasees has denied, and continues to deny, that he, she or it committed any breach of duty, breached any other law, aided and abetted any breach, was unjustly enriched, or engaged in any of the wrongful acts alleged in the Action; expressly maintains that he, she, or it diligently and scrupulously complied with all fiduciary and other legal duties, to the extent such duties exist; and further believes that the Action is without merit, and has entered into the Stipulation solely to eliminate the burden, expense, and uncertainties inherent in further litigation.

WHAT WILL HAPPEN IF THE SETTLEMENT IS APPROVED?  
WHAT CLAIMS WILL THE SETTLEMENT RELEASE?

45. If the Settlement is approved, the Court will enter an Order and Final Judgment Approving Derivative Action Settlement (the “Judgment”). Pursuant to the Judgment, upon the Final Approval and the Effective Date of the Settlement (as defined in paragraphs 46–47 below), the Action will be dismissed with prejudice as against the Individual Releasees and American Capital Releasees, and the following releases will occur:

**Release of Claims by Plaintiff, AGNC Stockholders, and AGNC:** Upon the Effective Date of the Settlement, Plaintiff and its past or present trustees, beneficiaries, participants, officers, directors, stockholders, parent entities, controlling persons, associates, affiliates, subsidiaries, principals, representatives, employees, attorneys, financial or investment advisors, consultants, accountants, investment bankers, commercial bankers, underwriters, advisors or agents, heirs, executors, trustees, general or limited partners or partnerships, limited liability companies, members, joint ventures, personal or legal representatives, insurers, estates, administrators, predecessors, successors and assigns, in their capacities as such only; and the legal representatives, heirs, executors, administrators, predecessors, successors, predecessors-in-interest, successors-in-interest, and assigns, in their capacities as such only, and all AGNC stockholders, derivatively on behalf of AGNC, and AGNC (collectively, the “Releasing Plaintiff Parties”) shall be deemed to have, and by operation of the Judgment shall have, settled and released, and shall forever be enjoined from prosecuting, any and all claims, whether based on state, local, foreign, federal, statutory, regulatory, common or other law or rule, including any and all claims for relief or causes of action, debts, demands, rights, liabilities, damages, losses, obligations, judgments, duties, costs, expenses, known or unknown, fixed or contingent, accrued or unaccrued, liquidated or unliquidated, apparent or unapparent, disclosed or undisclosed, at law or in equity, against the Individual Releasees, the Individual Maryland Releasees, and the American Capital Releasees together with their respective past, present, or future agents, insurers, representatives, attorneys, family members, heirs, executors, trustees, associates, affiliates, financial or investment advisors, consultants, accountants, advisors, estates, administrators, beneficiaries, distributes, foundations, fiduciaries, partners, partnerships, general or limited partners or partnerships, joint ventures, member firms, limited liability companies, corporations, parents, subsidiaries, divisions, associated entities, stockholders, principals, officers, directors, managing directors, managing partners, members, managing members, managing agents, successors, predecessors, predecessors-in-interest, and assigns (collectively, the “Released Defendant Parties”) that (i) were asserted in this Action; (ii) were asserted in the Maryland Action; (iii) could have been asserted in this Action or the Maryland Action under the facts, acts, events, matters, transactions, occurrences, statements, representations, misrepresentations, omissions, allegations, practices, claims or any other matters, things or causes whatsoever alleged therein; or (iv) which otherwise arise out of or relate in any way to the Renewals or the Internalization, including all disclosures made to AGNC stockholders related to the Renewals or the Internalization (the “Settled Defendant Claims”). For the avoidance of doubt, this release extinguishes any claims that were or could have been asserted or threatened by Plaintiff in its individual capacity or derivatively on behalf of AGNC against the Individual Releasees, the Individual Maryland Releasees, the American Capital Releasees, and/or AGNC under the facts, acts, events, matters, transactions, occurrences, statements, representations, misrepresentations, or omissions alleged in this Action or the Maryland Action.

**Release of Claims by Plaintiff:** Upon the Effective Date of the Settlement, Plaintiff in its individual capacity (*i.e.*, not on behalf of any other AGNC stockholders) and its past or present trustees, beneficiaries, plan recipients, officers, directors, stockholders, parent entities, controlling persons, associates, affiliates, subsidiaries, principals, representatives, employees, attorneys, financial or

investment advisors, consultants, accountants, investment bankers, commercial bankers, underwriters, advisors or agents, heirs, executors, trustees, general or limited partners or partnerships, limited liability companies, members, joint ventures, personal or legal representatives, insurers, estates, administrators, predecessors, successors and assigns, in their capacities as such only; and the legal representatives, heirs, executors, administrators, predecessors, successors, predecessors-in-interest, successors-in-interest, and assigns, in their capacities as such only shall be deemed to have, and by operation of the Judgment shall have, settled and released, and shall forever be enjoined from prosecuting, any and all claims, whether based on state, local, foreign, federal, statutory, regulatory, common or other law or rule, including any and all claims for relief or causes of action, debts, demands, rights, liabilities, damages, losses, obligations, judgments, duties, costs, expenses, known or unknown, fixed or contingent, accrued or unaccrued, liquidated or unliquidated, apparent or unapparent, disclosed or undisclosed, at law or in equity, against AGNC and any of its direct and indirect current and former subsidiaries, affiliates and all of their respective past or present officers, directors, stockholders, parent entities, controlling persons, associates, affiliates, subsidiaries, principals, representatives, employees, attorneys, financial or investment advisors, consultants, accountants, investment bankers, commercial bankers, underwriters, advisors or agents, heirs, executors, trustees, general or limited partners or partnerships, limited liability companies, members, joint ventures, personal or legal representatives, insurers, estates, administrators, predecessors, successors and assigns; and the legal representatives, heirs, executors, administrators, predecessors, successors, predecessors-in-interest, successors-in-interest, and assigns (including, without limitation, ACMM, AGNC Management, LLC, and MTGE Management, LLC), (collectively, the “Released AGNC Parties”) arising from acts, events, facts, matters, transactions, occurrences, statements or representations occurring prior to May 3, 2019 (the “Settled AGNC Claims”).

**Release of Claims by the Individual Releasees, American Capital Releasees, and AGNC:** Upon the Effective Date of the Settlement, the Individual Releasees, Individual Maryland Releasees, the American Capital Releasees, and AGNC, together with their past or present officers, directors, stockholders, parent entities, controlling persons, associates, affiliates, subsidiaries, principals, representatives, employees, attorneys, financial or investment advisors, consultants, accountants, investment bankers, commercial bankers, underwriters, advisors or agents, heirs, executors, trustees, general or limited partners or partnerships, limited liability companies, members, joint ventures, personal or legal representatives, insurers, estates, administrators, predecessors, successors and assigns, in their capacities as such only; and the legal representatives, heirs, executors, administrators, predecessors, successors, predecessors-in-interest, successors-in-interest, and assigns, in their capacities as such only (collectively, the “Releasing Defendant Parties” and together with the Releasing Plaintiff Parties, the “Releasing Parties”), shall be deemed to have, and by operation of the Judgment shall have, settled and released, and shall forever be enjoined from prosecuting, any and all claims, whether based on state, local, foreign, federal, statutory, regulatory, common or other law or rule, including any and all claims for relief or causes of action, debts, demands, rights, liabilities, damages, losses, obligations, judgments, duties, costs, expenses, known or unknown, fixed or contingent, accrued or unaccrued, liquidated or unliquidated, apparent or unapparent, disclosed or undisclosed, at law or in equity, arising out of or relating to the commencement or prosecution of the Action against Plaintiff or Plaintiff’s Counsel, together with their respective past, present or future agents, insurers, representatives, attorneys, immediate family members, heirs, executors, trustees, associates, affiliates, financial or investment advisors, consultants, accountants, advisors, estates, administrators, beneficiaries, distributees, foundations, fiduciaries, partners, partnerships, general or limited partners or partnerships, joint ventures, member firms, limited liability companies, corporations, parents, subsidiaries, divisions, associated entities, stockholders, principals, officers, directors, managing directors, managing partners, members, managing members, managing agents, successors, predecessors, predecessors-in-interest, and assigns (collectively, the “Released Plaintiff Parties” and together with the Released Defendant Parties

and the Released AGNC Parties, the “Released Parties”) (the “Settled Plaintiff Claims,” and together with the Released Defendant Claims and Released AGNC Claims, the “Settled Claims”).

**Release of Claims by the Individual Releasees, the Individual Maryland Releasees, and the American Capital Releasees:** Upon the Effective Date of the Settlement, each or any of the Individual Releasees, Individual Maryland Releasees, and the American Capital Releasees shall be deemed to have, and by operation of the Judgment shall have, settled and released, and shall forever be enjoined from prosecuting, any and all claims, whether based on state, local, foreign, federal, statutory, regulatory, common or other law or rule, including any and all claims for relief or causes of action, debts, demands, rights, liabilities, damages, losses, obligations, judgments, duties, costs, expenses, known or unknown, fixed or contingent, accrued or unaccrued, liquidated or unliquidated, apparent or unapparent, disclosed or undisclosed, at law or in equity, based upon the Action, the Maryland Action, or the Settlement, including claims based upon any Settlement Payment made on behalf of the Individual Releasees and on behalf of the American Capital Releasees, against any other of the Individual Releasees, the Individual Maryland Releasees, or the American Capital Releasees.

**Release of Claims by the American Capital Releasees:** Upon the Effective Date of the Settlement, the American Capital Releasees shall be deemed to have, and by operation of the Judgment shall have, settled and released, and shall forever be enjoined from prosecuting any and all claims, whether based on state, local, foreign, federal, statutory, regulatory, common or other law or rule, including any and all claims for relief or causes of action, debts, demands, rights, liabilities, damages, losses, obligations, judgments, duties, costs, expenses, known or unknown, fixed or contingent, accrued or unaccrued, liquidated or unliquidated, apparent or unapparent, disclosed or undisclosed, at law or in equity, based upon or regarding the Action, the Maryland Action, or the Settlement, including without limitation claims relating to any costs or expenses incurred in connection therewith or to any Settlement Payment made by or on behalf of the American Capital Releasees, against AGNC.

Notwithstanding the foregoing, nothing in the Judgment shall bar any action by any of the Parties to enforce or effectuate the terms of the Stipulation or the Judgment.

46. The approval of the Settlement by the Court shall be considered final (“Final Approval”) for purposes of this Stipulation upon the later of (i) the expiration of the time for the filing or noticing of an appeal or motion for reargument or rehearing from the Court’s Judgment approving the material terms of the Settlement without such appeal or motion having been made; (ii) the date of final affirmance of the Court’s Judgment on any appeal or reargument or rehearing; or (iii) the final dismissal of any appeal.

47. The “Effective Date” of the Settlement shall be the first date upon which the following conditions precedent of the Settlement have been met and occurred: (i) Final Approval of the Settlement; and (ii) the Court’s dismissal of the Action.

48. Upon the Effective Date of the Settlement, because the Company will have released the Settled Defendant Claims described above against the Released Defendant Parties, no AGNC stockholder will be able to commence, prosecute, or initiate another action asserting those claims against those parties.

49. By Order of the Court, pending final determination of whether the Settlement should be approved, (i) all proceedings in the Action, including all deadlines, other than proceedings as may be necessary to carry out the terms and conditions of the Stipulation, have been stayed and suspended until

further order of the Court; and (ii) Plaintiff and all other AGNC stockholders are barred and enjoined from commencing, instituting, or prosecuting any of the Settled Defendant Claims against any of the Released Defendant Parties. Provided, however, the Order of the Court does not enjoin the case captioned *In re AGNC Investment Corp.*, No. 8:16-cv-3215-TDC (D. Md.) (consolidated with Civil Action No. 8:16-cv-3310-TDC).

#### HOW WILL THE ATTORNEYS BE PAID?

50. Plaintiff's Counsel have not received any payment for their services in pursuing the claims asserted in this Action, nor have Plaintiff's Counsel been reimbursed for their out-of-pocket expenses. Plaintiff's Counsel invested their own resources for pursuing the claims asserted on a contingency basis, meaning they would recover their expenses and be compensated for their time only if they created benefits through this litigation. In light of the risks undertaken in pursuing this litigation on a contingency basis and the benefits created for the Company through the Settlement and the prosecution of the claims asserted, Plaintiff's Counsel intends to petition the Court for the Attorneys' Fee and Expense Award paid from (and out of) the Settlement Payment. Plaintiff's Counsel's application for the Attorneys' Fee and Expense Award will seek reimbursement of Plaintiff's Counsel's reasonable out of pocket expenses associated with creation of the Settlement Payment, which expenses Plaintiff's Counsel presently estimates will not exceed \$1 million. Plaintiff's Counsel will also seek an award of attorneys' fees of up to 27.5% of the \$35,500,000 Settlement Payment, net of expenses. Finally, Plaintiff's Counsel also intend to seek an Incentive Award in the amount of \$10,000 for Plaintiff for its time and effort in prosecuting the Action.

51. The Court will determine the amount of the Attorneys' Fee and Expense Award, as well as the amount of the Incentive Award. The Court-approved Attorneys' Fee and Expense Award and Incentive Award, if any, will be paid from the Settlement Payment. AGNC stockholders are not personally liable for any such fees or expenses.

#### WHEN AND WHERE WILL THE SETTLEMENT HEARING BE HELD? DO I HAVE THE RIGHT TO APPEAR AT THE SETTLEMENT HEARING? MAY I OBJECT TO THE SETTLEMENT AND SPEAK AT THE HEARING IF I DON'T LIKE THE SETTLEMENT?

52. The Court will consider the Settlement and all matters related to the Settlement at the Settlement Hearing. The Settlement Hearing will be held before the Honorable Tamika R. Montgomery-Reeves on October 15, 2019, at 1:30 p.m, at the Court of Chancery of the State of Delaware, Leonard L. Williams Justice Center, 500 North King Street, Wilmington, DE 19801. At the Settlement Hearing, the Court will, among other things: (i) determine whether Plaintiff and Plaintiff's Counsel have adequately represented the interests of AGNC and its stockholders; (ii) determine whether the proposed Settlement on the terms and conditions provided for in the Stipulation is fair, reasonable, and adequate to Plaintiff, AGNC, and AGNC stockholders, and should be approved by the Court; (iii) determine whether the Judgment, substantially in the form attached as Exhibit C to the Stipulation, should be entered dismissing the Action with prejudice against the Individual Releasees and the American Capital Releasees; (iv) determine whether the application for the Attorneys' Fee and Expense Award and Incentive Award should be approved; and (v) consider any other matters that may properly be brought before the Court in connection with the Settlement. Stockholders do not need to attend the Settlement Hearing.

53. Please Note: The Court has reserved the right to adjourn the Settlement Hearing or any adjournment thereof, including the consideration of the application for the Attorneys' Fee and Expense Award, without further notice of any kind other than by oral announcement at the Settlement Hearing or any adjournment thereof. The Court has further reserved the right to approve the Stipulation and the Settlement, at or after the Settlement Hearing, with such modifications as may be consented to by the Parties and without further notice to AGNC stockholders. You should monitor the Court's docket before making plans to attend the Settlement Hearing. You may also confirm the date and time of the Settlement Hearing by contacting Plaintiff's Counsel at the address indicated in paragraph 54 below.

54. Any Current AGNC Stockholder who or which owned shares of AGNC stock as of the date of the Court's entry of the Scheduling Order and who or which continues to own shares of AGNC stock as of October 15, 2019, the date of the Settlement Hearing, may object to the Settlement and/or Plaintiff's Counsel's application for the Attorneys' Fee and Expense Award or the Incentive Award. Objections must be in writing and filed with the Register in Chancery at the address set forth below on or before October 1, 2019. Objections must also be served on counsel for Plaintiff, AGNC, the Individual Releasees and the American Capital Releasees by hand, first class U.S. mail, or express service, at the addresses set forth below such that they are received no later than October 1, 2019. Plaintiff's Counsel will be filing a brief no later than 21 days before the Settlement Hearing, which any Current AGNC Stockholder should review before filing an objection.

Register in Chancery

Register in Chancery  
Delaware Court of  
Chancery  
Kent County Courthouse  
414 Federal Street  
Dover, DE 19901

Counsel for Plaintiff

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Counsel for AGNC

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Individual Releasees

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Counsel for the  
American Capital Releasees

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Wilmington, DE 19899

David Teklits  
MORRIS, NICHOLS,  
ARSHT & TUNNELL LLP  
1201 N. Market Street  
Wilmington, DE 19899

55. Any objections, filings and other submissions must: (i) state the name, address, and telephone number of the objector and, if represented by counsel, the name, address, and telephone number of his, her, or its counsel; (ii) be signed by the objector; (iii) state that the objection is being filed with respect to “*H&N Management Group, Inc. & AFF Cos Frozen Money Purchase Plan v. Couch et al.*, C.A. No. 12847-VCMR”; (iv) contain a specific, written statement of the objection(s) and the specific reason(s) for the objection(s), including any legal and evidentiary support the objector wishes to bring to the Court’s attention, and if the objector has indicated that he, she, or it intends to appear at the Settlement Hearing, the identity of any witnesses the objector may call to testify and any exhibits the objector intends to introduce into evidence at the hearing; and (v) include documentation sufficient to prove that the objector owned shares of AGNC stock as of the close of business on June 24, 2019, and contain a statement that the objector continues to hold shares of AGNC stock as of the date of filing of the objection and will continue to hold shares of AGNC stock as of the date of the Settlement Hearing.

56. Current AGNC Stockholders who or which owned shares of AGNC stock as of the date of the Court’s entry of the Scheduling Order and who or which continue to own shares of AGNC stock as of the date of the Settlement Hearing may file a written objection without having to appear at the Settlement Hearing. Unless the Court orders otherwise, however, such persons may not appear at the Settlement Hearing to present their objections unless they first filed and served a written objection in accordance with the procedures described above.

57. Persons who file and serve a timely written objection as described above and who wish to be heard at the Settlement Hearing in opposition to the approval of the Settlement, Plaintiff’s Counsel’s application for the Attorneys’ Fee and Expense Award, and/or Incentive Award must also file a notice of appearance with the Register in Chancery and serve it on counsel for Plaintiff, AGNC, the Individual Releasees and the American Capital Releasees at the addresses set forth in paragraph 54 above so that it is *received* on or before October 1, 2019. Persons who intend to object and desire to present evidence at the Settlement Hearing must include in their written objection or notice of appearance the identity of any witnesses they may call to testify and exhibits they intend to introduce into evidence at the Settlement Hearing. Such persons may be heard at the discretion of the Court.

58. You are not required to hire an attorney to represent you in making written objections or in appearing at the Settlement Hearing. However, if you decide to hire an attorney, it will be at your own expense, and that attorney must file a notice of appearance with the Court and serve it on counsel for Plaintiff, AGNC, the Individual Releasees and the American Capital Releasees at the addresses set forth in paragraph 54 above so that the notice is *received* on or before October 1, 2019.

59. Unless the Court orders otherwise, any person or entity who or which does not make his, her, or its objection in the manner set forth above: (i) shall be deemed to have waived and forfeited his, her, or its right to object to any aspect of the Settlement, the requested Attorneys’ Fee and Expense Award or the Incentive Award; (ii) shall be forever barred and foreclosed from objecting to the fairness, reasonableness, or adequacy of the Settlement, the Judgment to be entered approving the Settlement, or the requested or awarded Attorneys’ Fee and Expense Award and Incentive Award; and (iii) shall be deemed to have waived and be forever barred and foreclosed from being heard, in this or any other proceeding, with respect to any matters concerning the Settlement or the requested or rewarded Attorneys’ Fee and Expense Award and Incentive Award.

CAN I SEE THE COURT FILE? WHOM SHOULD I CONTACT IF I HAVE QUESTIONS?

60. This Notice does not purport to be a comprehensive description of the Action, the allegations related thereto, or the terms of the Settlement. For a more detailed statement of the matters involved in the Action, you may view a copy of the Stipulation in the “Investors” section of the Company’s website, <https://agnc.com>. You may also inspect the pleadings, the Stipulation, the Orders entered by the Court, and other papers filed in the Action (with the exception of documents filed under seal as “Confidential” or “Highly Confidential”) at the Office of the Register in Chancery in the Court of Chancery of the State of Delaware, Leonard L. Williams Justice Center, 500 North King Street, Wilmington, DE 19801, during regular business hours of each business day. If you have questions regarding the Action or the Settlement, you may write or call Plaintiff’s Counsel: Ned Weinberger, Labaton Sucharow LLP, 300 Delaware Avenue, Suite 1340, Wilmington, DE 19801, (302) 573-2540; Jeremy Friedman, Friedman Oster & Tejtel PLLC, 493 Bedford Center Road, Suite 2D, Bedford Hills, NY 10507, (888) 529-1108; or Chad Johnson, Quinn Emanuel Urquhart & Sullivan, LLP, 52 Madison Avenue, 22nd Floor, New York, NY 10010, (212) 849-7000.

NOTICE TO PERSONS OR ENTITIES  
HOLDING RECORD OWNERSHIP ON BEHALF OF OTHERS.

Brokerage firms, banks, and other persons or entities holding shares of AGNC stock as of the close of business on June 24, 2019, as record holders for the beneficial interest of persons or organizations other than themselves are requested to immediately send this Notice to all such beneficial owners. If additional copies of the Notice are required to forward to such beneficial owners, record holders may (i) request from AGNC Settlement Notice Administrator, c/o KCC Class Action Services, P.O. Box 404000, Louisville, KY 40233-4000, and [AGNCSettlement@kccllc.com](mailto:AGNCSettlement@kccllc.com), sufficient copies of this Notice to forward to all such beneficial owners; or (ii) provide a list of the names and addresses of all such beneficial owners to AGNC Settlement Notice Administrator, c/o KCC Class Action Services, P.O. Box 404000, Louisville, KY 40233-4000, and [AGNCSettlement@kccllc.com](mailto:AGNCSettlement@kccllc.com). If you choose the second option, the notice administrator will send a copy of the Notice to the beneficial owners. Copies of this Notice may also be obtained from the “Investors” section of the Company’s website, <https://agnc.com/>.

**DO NOT CALL OR WRITE THE COURT OR THE OFFICE OF  
THE REGISTER IN CHANCERY REGARDING THIS NOTICE.**

Dated: June 28, 2019

BY ORDER OF THE COURT