

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

IN RE FINSERV ACQUISITION CORP.  
SPAC LITIGATION

C.A. No. 2022-0755-PAF

**NOTICE OF PENDENCY AND PROPOSED SETTLEMENT OF STOCKHOLDER  
CLASS 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.*

**NOTICE OF PENDENCY OF CLASS ACTION:**<sup>1</sup> Please be advised that your rights will be affected by the above-captioned stockholder class action (“Action”) pending in the Court of Chancery of the State of Delaware (the “Court”) if you held Class A common stock of FinServ Acquisition Corp. (“FinServ” or the “Company”) as of the closing of FinServ’s merger with legacy Katapult Holdings, Inc. (“Legacy Katapult”), which occurred June 9, 2021 (“de-SPAC Transaction”).

**NOTICE OF SETTLEMENT:** Please also be advised that (i) plaintiff Andrew Saunders (“Plaintiff”), on behalf of himself and all other members of the Settlement Class (as defined in paragraph 26 below); and (ii) defendants Lee Einbinder, Howard Kurz, Robert Matza, Diane B. Glossman, and Aris Keketjian (collectively, “Defendants” and together with Plaintiff, the “Parties”) have reached a proposed settlement of the Action on the terms set forth in the Stipulation (“Settlement”). Pursuant to the Settlement, Defendants have agreed to pay, or cause to be paid, \$9,500,000 in total settlement value, with \$6,725,000 paid in cash and the remaining \$2,775,000 paid in either shares of freely-tradeable Katapult Holdings, Inc. (“Katapult”) common stock or additional cash (“Delaware Settlement Consideration”). If approved by the Court, the Settlement will resolve all claims in the Action.

Please Note: The parties to a related class action captioned *McIntosh v. Katapult Holdings, Inc.*, No. 1:21-cv-07251-AS pending in the United States District Court for the Southern District of New York (“New York Action”) have reached a proposed settlement of the New York Action (“New York Settlement”). Pursuant to the New York Settlement, Defendants have agreed to pay, or cause to be paid, \$2,500,000 in total settlement value, with \$1,775,000 paid in cash and the remaining \$725,000 paid in either shares of freely-tradeable Katapult common stock or additional cash. The New York Settlement resolves claims brought on behalf of a class consisting of persons and entities that (i) purchased or otherwise acquired Katapult securities between June 15, 2021 and August 9, 2021 (both dates inclusive) and/or (ii) beneficially owned and/or held common stock of FinServ as of May 11, 2021 and were eligible to vote at FinServ’s June 7, 2021 special meeting. For additional information about the New York Settlement, please contact JND Legal Administration at Katapult Securities Litigation, c/o JND Legal Administration, PO Box 91340,

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<sup>1</sup> Any capitalized terms not otherwise defined in this Notice shall have the meanings given to them in the Stipulation and Agreement of Settlement, Compromise, and Release entered into by the Parties on July 3, 2024 (“Stipulation”). A copy of the Stipulation is available at [www.FinServAcquisitionCorpSPACLitigation.com](http://www.FinServAcquisitionCorpSPACLitigation.com).

Seattle, WA 98111; info@Katapult-FinServSecuritiesLitigation.com; www.Katapult-FinServSecuritiesLitigation.com.

**IF YOU DO NOT INTEND TO OBJECT TO THE SETTLEMENT, THE ATTORNEYS' FEE AND EXPENSE AWARD (DEFINED BELOW), OR THE INCENTIVE FEE AWARD, YOU NEED NOT TAKE ACTION IN RESPONSE TO THIS NOTICE.**

**PLEASE READ THIS NOTICE CAREFULLY AND IN ITS ENTIRETY.** This Notice explains how members of the Settlement Class (as defined in paragraph 26 below) ("Class Members," and each a "Class Member") will be affected by the Settlement. The following table provides a brief summary of the legal rights you have as a Class Member and the relevant deadlines, which are described in more detail later in this Notice.

<b>CLASS MEMBERS' LEGAL RIGHTS IN THE SETTLEMENT:</b>	
<b>RECEIVE A PAYMENT FROM THE SETTLEMENT. CLASS MEMBERS <u>DO NOT</u> NEED TO SUBMIT A CLAIM FORM.</b>	If you are a member of the Settlement Class, you <u>may</u> be eligible to receive a <i>pro rata</i> distribution from the Settlement proceeds. Eligible Class Members <u>do not</u> need to submit a claim form in order to receive a distribution from the Settlement, if approved by the Court. If you are eligible for a distribution from the Settlement, it will be paid to you directly. <i>See</i> paragraphs 32-40 below for further discussion.
<b>OBJECT TO THE SETTLEMENT BY SUBMITTING A WRITTEN OBJECTION SO THAT IT IS <u>RECEIVED</u> NO LATER THAN SEPTEMBER 25, 2024.</b>	If you are a member of the Settlement Class and would like to object to the proposed Settlement, the proposed Plan of Allocation, or Plaintiff's Counsel's application for an award of attorneys' fees and expenses ("Fee and Expense Award"), including Plaintiff's application for an incentive award ("Incentive Award"), you may write to the Court and explain the reasons for your objection.
<b>ATTEND A HEARING ON OCTOBER 10, 2024, AT 3:15 P.M., AND FILE A NOTICE OF INTENTION TO APPEAR SO THAT IT IS <u>RECEIVED</u> NO LATER THAN SEPTEMBER 25, 2024.</b>	Filing a written objection and notice of intention to appear that is received by September 25, 2024, allows you to speak in Court, at the discretion of the Court, about your objection. In the Court's discretion, the October 10, 2024 hearing may be conducted by telephone or videoconference ( <i>see</i> paragraphs 48-49 below). If you submit a written objection, you may (but you do not have to) attend the hearing and, at the discretion of the Court, speak to the Court about your objection.

Questions? Call 844-552-0061, email info@FinServAcquisitionCorpSPACLitigation.com, or visit www.FinServAcquisitionCorpSPACLitigation.com

## WHAT THIS NOTICE CONTAINS

What Is The Purpose Of This Notice? .....	Page 3
What Is This Case About? .....	Page 4
How Do I Know If I Am Affected By The Settlement? .....	Page 6
What Are The Terms Of The Settlement? .....	Page 6
What Are The Parties' Reasons For The Settlement? .....	Page 7
Will I Receive A Payment From The Settlement? How Much Will My Payment From The Settlement, If Any, Be? How Would I Receive My Payment? .....	Page 8
What Will Happen If The Settlement Is Approved? What Claims Will The Settlement Release? .....	Page 10
How Will Plaintiff's Counsel Be Paid? .....	Page 12
When and Where Will The Settlement Hearing Be Held? Do I Have To Attend The Hearing? May I Speak At The Hearing If I Don't Like The Settlement? .....	Page 13
Can I See The Court File? Whom Should I Contact If I Have Questions? .....	Page 15
What If I Held Shares On Someone Else's Behalf? .....	Page 16

## WHAT IS THE PURPOSE OF THIS NOTICE?

1. The purpose of this Notice is to notify Class Members of the existence of the Action and the terms of the proposed Settlement of the Action. The Notice is also being sent to inform Class Members of a hearing that the Court has scheduled to consider the fairness, reasonableness, and adequacy of the Settlement, the proposed Plan of Allocation for the Settlement proceeds, and the application by Plaintiff's Counsel<sup>2</sup> for a Fee and Expense Award in connection with the Settlement, including Plaintiff's application for an Incentive Award ("Settlement Hearing"). See paragraphs 48-49 below for details about the Settlement Hearing, including the date and time of the hearing.

2. The Court directed that this Notice be mailed to you because you may be a member of the Settlement Class. The Court has directed us to send you this Notice because, as a Class Member, you have a right to know about your options before the Court rules on the proposed Settlement. Additionally, you have the right to understand how the Action and the proposed Settlement generally affect your legal rights. Please Note: The Court may approve the proposed Settlement with such modifications as the Parties may agree to, if appropriate, without further notice to the Settlement Class.

3. The issuance of this Notice is not an expression by the Court of any findings of fact or any opinion concerning the merits of any claim in the Action, and the Court has not yet decided

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<sup>2</sup> "Plaintiff's Counsel" are Plaintiff's Lead Counsel—Bernstein Litowitz Berger & Grossmann LLP and Andrews & Springer LLC —and Kaskela Law LLC.

whether to approve the Settlement. If the Court approves the Settlement, then payments to Eligible Class Members (*see* paragraphs 32-40 below) will be made after any appeals are resolved.

Please Note: Receipt of this Notice does not mean that you are a Class Member or that you will be entitled to receive a payment from the Settlement.

## WHAT IS THIS CASE ABOUT?

THE FOLLOWING RECITATION DOES NOT CONSTITUTE FINDINGS OF THE COURT. THE COURT HAS MADE NO FINDINGS WITH RESPECT TO THE FOLLOWING MATTERS, AND THESE RECITATIONS SHOULD NOT BE UNDERSTOOD AS AN EXPRESSION OF ANY OPINION OF THE COURT AS TO THE MERITS OF ANY OF THE CLAIMS OR DEFENSES RAISED BY ANY OF THE PARTIES.

4. On November 5, 2019, FinServ, a special purpose acquisition company formed for the purpose of effecting a merger, capital stock exchange, asset acquisition, stock purchase, reorganization, or similar business combination, completed its initial public offering of 25 million units, with each unit consisting of one share of FinServ Class A common stock and one half of a warrant with an exercise price of \$11.50 per share.

5. On December 18, 2020, FinServ, Keys Merger Sub 1, Inc. and Keys Merger Sub 2, LLC (both wholly owned subsidiaries of FinServ), and Legacy Katapult entered into an Agreement and Plan of Merger, pursuant to which FinServ would acquire Legacy Katapult (as defined above, the “de-SPAC Transaction”).

6. On May 18, 2021, FinServ filed a definitive proxy statement pursuant to Section 14(a) of the Securities Exchange Act of 1934 (“1934 Act”) with the United States Securities and Exchange Commission relating to the de-SPAC Transaction (such proxy statement together with any preliminary proxy filings, as well as any amendments or supplements thereto, the “Proxy”).

7. On June 7, 2021, a majority of FinServ stockholders voted to approve the de-SPAC Transaction; the de-SPAC Transaction closed on June 9, 2021, and FinServ changed its name to Katapult Holdings, Inc.

8. On February 23, 2022, Plaintiff served a demand to inspect the books and records of the Company pursuant to 8 *Del. C.* § 220 (the “Section 220 Demand”). In response to the Section 220 Demand, the Company produced over 1,000 pages of documents to Plaintiff.

9. On August 25, 2022, Plaintiff filed the Verified Class Action Complaint on behalf of himself and all other similarly situated current and former Company stockholders, commencing this action in the Delaware Court of Chancery bearing the caption *Saunders v. Einbinder*, C.A. No. 2022-0755-PAF.

10. On September 19, 2022, FinServ Holdings LLC (“FinServ Holdings”) filed a motion to dismiss the Verified Class Action Complaint on the grounds that it, as an LLC entity, was dissolved.

11. On November 1, 2022, Defendants filed a motion to dismiss the Verified Class Action Complaint under Court of Chancery Rule 12(b)(6).

12. On January 27, 2023, Plaintiff filed his Verified Amended Class Action Complaint (the “Complaint”), alleging that Defendants breached their fiduciary duties owed to FinServ stockholders by pursuing the de-SPAC Transaction with the purpose of gaining a non-ratable

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benefit for themselves through their interest in FinServ Class B shares and by issuing an allegedly false and misleading Proxy that misled unaffiliated FinServ Class A stockholders about the viability of Katapult's future and precluded unaffiliated FinServ Class A stockholders from making an informed decision as to whether to exercise their redemption rights. The Complaint sought, among other things, a Court order awarding Plaintiff and the other members of the class monetary damages.

13. On February 10, 2023, Defendants filed a motion to dismiss the Complaint under Court of Chancery Rule 12(b)(6), and FinServ Holdings renewed its motion to dismiss on the grounds that the LLC entity was dissolved and no longer existed (together, the "Motion to Dismiss").

14. On March 1, 2023, the Parties stipulated to the dismissal of FinServ Holdings from the Action, and the Court entered the stipulated Order that same day; under that Order, the caption of the Action was changed to *In re FinServ Acquisition Corp. SPAC Litigation*, C.A. No. 2022-0755-PAF.

15. Between March 27 and May 31, 2023, the Parties submitted briefs concerning the Motion to Dismiss to the Court, and the Court held a hearing for oral argument on July 27, 2023.

16. On November 2, 2023, the Court delivered a bench ruling granting in part and denying in part the Motion to Dismiss.

17. On December 4, 2023, Defendants filed an Answer to the Complaint (the "Answer"). In the Answer, Defendants asserted as defenses to Plaintiff's claims, among others things, that the de-SPAC Transaction was approved by an uncoerced and fully informed vote of FinServ's stockholders, the Proxy did not contain any false or misleading statement or omit any material fact, the class members had a redemption right and made a fully informed determination to invest, and Defendants acted in good faith and in a manner believed to be in the best interests of FinServ stockholders at all relevant times.

18. Between November 2023 and February 2024, Plaintiff engaged in document and other written discovery by propounding 49 requests for the production of documents to Defendants, serving 19 interrogatories directed to Defendants, and serving subpoenas on two third parties; Defendants served responses to interrogatories.

19. On December 18, 2023, Plaintiff's Counsel and Defendants' Counsel participated in a mediation session (the "Mediation") before Michelle Yoshida ("Mediator"). The Mediation was also attended by plaintiffs in the New York Action ("New York Plaintiffs"), which asserted claims under Sections 10(b), 14(a), and 20(a) of the 1934 Act against Katapult, Orlando Zayas, Lee Einbinder, and Howard Kurz.

20. In advance of the Mediation, the Parties as well as the New York Plaintiffs exchanged mediation statements and exhibits through the Mediator, which addressed the issues of both liability and damages. The Mediation ended without any agreement being reached. Following additional discussions between the Parties and the Mediator as well as the New York Plaintiffs, on February 21, 2024, the Mediator made a recommendation to settle the Action as well as the New York Action, which expired by its terms at 5:00 p.m. PT on February 22, 2024.

21. As a result of extensive, arm's-length negotiations during and following the Mediation, the Parties as well as the New York Plaintiffs accepted the Mediator's recommendation. Thereafter, the Parties continued to negotiate extensively at arm's length concerning the non-monetary terms of the Settlement and reached an agreement in principle to

settle the Action, which was memorialized in a Settlement Term Sheet executed on May 20, 2024 (“Settlement Term Sheet”).

22. The Settlement Term Sheet set forth, among other things, the Parties’ agreement to settle and release all claims against Defendants in the Action in return for \$9,500,000 in total settlement value—with \$6,725,000 paid in cash and the remaining \$2,775,000 paid in either shares of freely-tradeable Katapult common stock or additional cash—subject to certain terms and conditions and the execution of a customary “long form” stipulation and agreement of settlement and related papers.

23. On May 20, 2024, the Parties informed the Court of the agreement in principle to settle the Action and agreed to suspend all upcoming deadlines in the Action.

24. After additional negotiations regarding the specific terms of their agreement, the Parties entered into the Stipulation on July 3, 2024. The Stipulation, which reflects the final and binding agreement between the Parties on the terms and conditions of the Settlement and supersedes the Settlement Term Sheet, can be viewed at [www.FinServAcquisitionCorpSPACLitigation.com](http://www.FinServAcquisitionCorpSPACLitigation.com).

25. On July 17, 2024, the Court entered a Scheduling Order directing that notice of the Settlement be provided to potential Class Members and scheduling the Settlement Hearing to, among other things, consider whether to grant final approval to the Settlement.

#### **HOW DO I KNOW IF I AM AFFECTED BY THE SETTLEMENT?**

26. If you are a member of the Settlement Class, you are subject to the Settlement. The Settlement Class preliminarily certified by the Court solely for purposes of the Settlement consists of:

All record and beneficial holders of Class A common stock of FinServ as of the closing of the de-SPAC Transaction on June 9, 2021. Excluded from the Settlement Class are (i) Katapult, Orlando Zayas, Karissa Cupito, Derek Medlin, Lee Einbinder, Howard Kurz, Robert Matza, Diane B. Glossman, Aris Kekedjian, and FinServ Holdings; (ii) any person who was an officer or director of FinServ Holdings or FinServ between November 5, 2019 and June 9, 2021; (iii) any person who was an officer or director of Katapult between May 18, 2021 and August 10, 2021; (iv) the immediate family members, meaning the parents, spouse, siblings, or children, of any of the foregoing persons; (v) any trusts, estates, entities, or accounts that held FinServ or Katapult shares for the benefit of the foregoing persons or entities; and (vi) the legal representatives, heirs, successors-in-interest, successors, transferees, and assigns of the foregoing persons or entities (each, an “Excluded Person” and, collectively, the “Excluded Persons”).

Please Note: The Settlement Class is a non-“opt-out” class pursuant to Delaware Court of Chancery Rules 23(a), 23(b)(1), and 23(b)(2). Accordingly, Class Members do not have the right to exclude themselves from the Settlement Class.

#### **WHAT ARE THE TERMS OF THE SETTLEMENT?**

27. In consideration of the settlement of the Released Plaintiff’s Claims (defined in paragraph 42 below) against Defendants and the other Released Defendants’ Persons (defined in

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paragraph 42 below), Defendants have agreed to pay, or cause to be paid, total consideration equal to \$9,500,000, comprised of \$6,725,000 paid in cash and the remaining \$2,775,000 paid in either shares of freely-tradeable Katapult common stock (“Delaware Settlement Shares”) or additional cash (the \$6,725,000 cash consideration and any additional cash consideration that Katapult shall pay, the “Delaware Cash Settlement Amount”).<sup>3</sup>

28. The Delaware Cash Settlement Amount, plus any and all interest earned thereon, and the Delaware Settlement Shares are collectively referred to as the “Delaware Settlement Fund.”<sup>4</sup> If the Settlement is approved by the Court and the Effective Date occurs, the “Delaware Net Settlement Fund”<sup>5</sup> will be distributed in accordance with the proposed Plan of Allocation or such other plan of allocation as the Court may approve.

### WHAT ARE THE PARTIES’ REASONS FOR THE SETTLEMENT?

29. Plaintiff, through Plaintiff’s Lead Counsel, has conducted an investigation relating to the claims and the underlying events alleged in the Action. Plaintiff’s Lead Counsel have analyzed the evidence adduced during the investigation as described above and have also researched the applicable law with respect to the claims asserted in the Action and the potential defenses thereto. This investigation and the settlement negotiations between the Parties have provided Plaintiff with a detailed basis upon which to assess the relative strengths and weaknesses of the Parties’ respective positions in the Action.

30. Based upon their investigation, prosecution, and mediation of the Action, Plaintiff and Plaintiff’s Lead Counsel have concluded that the terms and conditions of the Settlement and the Stipulation are fair, reasonable, and adequate to Plaintiff and the other Class Members and in

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<sup>3</sup> The number of Delaware Settlement Shares that Katapult will issue will be calculated based on the volume-weighted average per share price of Katapult common stock for the ten consecutive trading days immediately preceding the date of the Settlement Hearing. For additional information regarding the issuance of the Settlement Shares, including the timing of delivery of the Settlement Shares to Plaintiff, please see paragraphs 7 and 8 of the Stipulation.

<sup>4</sup> The Delaware Settlement Shares, less any Delaware Settlement Shares awarded to Plaintiff’s Counsel for a Fee and Expense Award, are referred to as the “Delaware Class Settlement Shares.” Pursuant to the Stipulation, Plaintiff’s Lead Counsel have the right to decide, in their sole discretion, whether to: (i) distribute the Delaware Class Settlement Shares to Eligible Class Members or (ii) sell all or any portion of the Delaware Class Settlement Shares and distribute the net cash proceeds from the sale of the shares to Eligible Class Members. Please Note: Once the shares are issued, the value of the Delaware Class Settlement Shares may fluctuate. No representation can be made as to what the value of the Delaware Class Settlement Shares will be at the time the shares are distributed or, if applicable, sold by Plaintiff’s Lead Counsel.

<sup>5</sup> “Delaware Net Settlement Fund” means the Delaware Cash Settlement Fund plus the net cash proceeds from the sale of any Delaware Class Settlement Shares, as well as accrued interest thereon, or the Delaware Class Settlement Shares themselves, less: (i) any Taxes; (ii) any Notice and Administration Costs; (iii) any Fee and Expense Award (as defined in paragraph 44 below), including any Incentive Award (as defined in paragraph 44 below) to Plaintiff to be deducted solely from any Fee and Expense Award; and (iv) any other costs or fees approved by the Court.

their best interests. Based on Plaintiff's direct oversight of the prosecution of the Action, along with the input of Plaintiff's Lead Counsel, Plaintiff has agreed to settle the claims raised in the Action pursuant to the terms and provisions of the Stipulation, after considering: (i) the substantial benefits that Plaintiff and the other Class Members will receive from the resolution of the Action; (ii) the attendant risks of litigation; and (iii) the desirability of permitting the Settlement to be consummated as provided by the terms of the Stipulation. The Settlement and the Stipulation shall in no event be construed as, or deemed to be, evidence of a concession by Plaintiff of any infirmity in the claims asserted in the Action.

31. Defendants deny all allegations of wrongdoing, fault, liability, or damage to Plaintiff or the Settlement Class, and further deny that Plaintiff has asserted a valid claim as to any of them. Defendants further deny that they engaged in any wrongdoing or committed any violation of law or breach of duty and believe that they acted properly, in good faith, and in a manner consistent with their legal duties and are entering into the Settlement and the Stipulation solely to avoid the substantial burden, expense, inconvenience, and distraction of continued litigation and to resolve each of Plaintiff's claims against Defendants. The Settlement and the Stipulation shall in no event be construed as, or deemed to be, evidence of or an admission or concession on the part of any of the Defendants with respect to any claim or factual allegation or of any fault or liability or wrongdoing or damage whatsoever or any infirmity in the defenses that any of the Defendants have or could have asserted.

**WILL I RECEIVE A PAYMENT FROM THE SETTLEMENT?  
HOW MUCH WILL MY PAYMENT FROM THE SETTLEMENT, IF ANY, BE?  
HOW WOULD I RECEIVE MY PAYMENT?**

32. Please Note: If you are eligible to receive a payment from the Delaware Net Settlement Fund, you do *not* have to submit a claim form in order to receive your payment.

33. The Delaware Net Settlement Fund will not be distributed unless and until the Court has approved the Settlement and the Effective Date of the Settlement has occurred. Approval of the Settlement is independent from approval of a plan of allocation. Any determination with respect to a plan of allocation will not affect the Settlement, if approved.

34. The Court may approve the Plan of Allocation as proposed or it may modify the Plan of Allocation without further notice to the Settlement Class. Any order(s) regarding any modification of the Plan of Allocation will be posted on the Settlement website, [www.FinServAcquisitionCorpSPACLitigation.com](http://www.FinServAcquisitionCorpSPACLitigation.com).

**PROPOSED PLAN OF ALLOCATION**

35. The Delaware Net Settlement Fund will be distributed on a *pro rata* basis to Eligible Class Members. "Eligible Class Members" means Eligible Beneficial Holders (as defined in paragraph 36 below) and Eligible Record Holders (as defined in paragraph 37 below).

36. "Eligible Beneficial Holders" means the ultimate beneficial owners of any Eligible Shares (as defined in paragraph 38 below) held of record by Cede & Co. ("Cede"), provided that



no Excluded Persons (as defined in paragraph 26 above)<sup>6</sup> and no Redeeming Stockholders<sup>7</sup> may be an Eligible Beneficial Holder.

37. “Eligible Record Holders” means the record holders of any Eligible Shares, other than Cede, provided that no Excluded Persons and no Redeeming Stockholders may be an Eligible Record Holder.

38. “Eligible Shares” means shares of FinServ Class A common stock held as of the closing of the de-SPAC Transaction on June 9, 2021, excluding those shares held by Excluded Persons and Redeeming Stockholders (“Excluded Shares”).

39. Each Eligible Class Member will be eligible to receive a *pro rata* payment from the Delaware Net Settlement Fund equal to the product of (i) the number of Eligible Shares held by the Eligible Class Member and (ii) the “Per-Share Recovery,” which will be determined by dividing the total amount of the Delaware Net Settlement Fund by the total number of Eligible Shares held by all Eligible Class Members, *provided, however*, that no cash payments for less than \$1.00 will be made.

40. Subject to Court approval in the Class Distribution Order,<sup>8</sup> Plaintiff’s Lead Counsel will direct the Settlement Administrator to conduct the distribution of the Delaware Net Settlement Fund to Eligible Class Members as follows:

(i) With respect to Eligible Shares held of record by the Depository Trust & Clearing Corporation, including its subsidiary the Depository Trust Company (collectively, “DTC”), through its nominee Cede, the Settlement Administrator will obtain from DTC, and DTC will provide to the Settlement Administrator, a copy of an allocation report, “chill” report, or such other report generated by DTC (“DTC Allocation Report”). The DTC Allocation Report will set forth the DTC participants for the benefit of eligible Class Members (“DTC Participants”) that held shares of FinServ Class A common stock as of the closing of the de-SPAC Transaction on June 9, 2021 and the number of shares of FinServ Class A common stock held by each DTC Participant as of the closing of the de-SPAC Transaction on June 9, 2021.

Using that information, the Settlement Administrator will cause that portion of the Delaware Net Settlement Fund to be allocated to Eligible Class Members who held their Eligible Shares through DTC Participants to be paid to the DTC Participants by paying each the Per-Share Recovery times its respective Security Position,<sup>9</sup> subject to payment suppression instructions with respect to Excluded Shares and any other shares ineligible for recovery from the Settlement. The DTC Participants and their respective customers, including any intermediaries, shall then ensure

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<sup>6</sup> Under the terms of the Stipulation, Defendants will provide the Settlement Administrator or Plaintiff’s Lead Counsel with a list of the Excluded Persons.

<sup>7</sup> “Redeeming Stockholders” means the persons and entities who exercised redemption rights in connection with the de-SPAC Transaction. Under the terms of the Stipulation, Defendants will provide the Settlement Administrator or Plaintiff’s Lead Counsel with a list of the Redeeming Stockholders.

<sup>8</sup> “Class Distribution Order” means any order entered by the Court permitting the distribution of the Delaware Net Settlement Fund to Eligible Class Members.

<sup>9</sup> For each DTC Participant, the “Security Position” is the number of Eligible Shares held by such DTC Participant, as reflected on the DTC Allocation Report.

*pro rata* payment to each Eligible Class Member based on the number of Eligible Shares beneficially owned by such Eligible Class Member.

(ii) With respect to Eligible Shares held of record other than by Cede, as nominee for DTC (a “Non-Cede Record Position”), the payment with respect to each such Non-Cede Record Position will be made by the Settlement Administrator from the Delaware Net Settlement Fund directly to the Eligible Record Holder of each Non-Cede Record Position in an amount equal to the Per-Share Recovery times the number of Eligible Shares comprising such Non-Cede Record Position.

(iii) A person or entity who purchased Eligible Shares but had not settled those Eligible Shares by the closing of the de-SPAC Transaction on June 9, 2021 (“Non-Settled Shares”) will be treated as an Eligible Class Member with respect to those Non-Settled Shares, and a person or entity who sold those Non-Settled Shares on or before the closing of the de-SPAC Transaction on June 9, 2021 will not be treated as an Eligible Class Member with respect to those Non-Settled Shares.

(iv) In the event that any payment from the Delaware Net Settlement Fund is undeliverable or in the event a check is not cashed by the stale date (i.e., more than six months from the check’s issue date), the DTC Participants or the holder of a Non-Cede Record Position shall follow their respective policies with respect to further attempted distribution.

<p style="text-align: center;"><b>WHAT WILL HAPPEN IF THE SETTLEMENT IS APPROVED? WHAT CLAIMS WILL THE SETTLEMENT RELEASE?</b></p>
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41. If the Settlement is approved, the Court will enter an Order and Final Judgment. Pursuant to the Order and Final Judgment, all claims asserted against Defendants in the Action will be dismissed with prejudice and the following Releases will occur:

(i) Upon the Effective Date of the Settlement, Plaintiff and each of the other Class Members, on behalf of themselves, and their respective heirs, executors, administrators, predecessors, successors, and assigns in their capacities as such, shall be deemed to have, and by operation of law and of the Order and Final Judgment shall have, fully, finally, and forever dismissed with prejudice, settled, resolved, relinquished, released, waived, and discharged the Released Plaintiff’s Claims (as defined below) against the Released Defendants’ Persons (as defined below), and shall forever be barred and enjoined from prosecuting the Released Plaintiff’s Claims against the Released Defendants’ Persons. This Release shall not apply to any of the Excluded Plaintiff’s Claims (as defined below).

(ii) Upon the Effective Date of the Settlement, Defendants, on behalf of themselves, and their respective heirs, executors, administrators, predecessors, successors, and assigns in their capacities as such, shall be deemed to have, and by operation of law and of the Order and Final Judgment shall have, fully, finally, and forever dismissed with prejudice, settled, resolved, relinquished, released, waived, and discharged the Released Defendants’ Claims (as defined below) against the Released Plaintiff’s Persons (as defined below), and shall forever be barred and enjoined from prosecuting the Released Defendants’ Claims against the Released Plaintiff’s Persons. This Release shall not apply to any of the Excluded Defendants’ Claims (as defined below).

42. The following capitalized terms used in paragraph 41 above shall have the meanings specified below:

“Released Claims” means, together, the Released Plaintiff’s Claims and the Released Defendants’ Claims.

“Released Defendants’ Claims” means all actions, causes of action, suits, liabilities, claims, rights of action, debts, sums of money, covenants, contracts, controversies, agreements, promises, damages, contributions, indemnities, and demands of every nature and description, whether or not currently asserted, whether known claims or Unknown Claims (defined below), suspected, existing, or discoverable, whether arising under federal, state, common, or foreign law, whether based in contract, tort, statute, law, equity, or otherwise, that arise out of or are based upon the institution, prosecution, or settlement of the claims against Defendants. For the avoidance of doubt, Released Defendants’ Claims do not include any claims to enforce the terms of this Stipulation or the Settlement (the “Excluded Defendants’ Claims”).

“Released Defendants’ Persons” means Defendants, FinServ, FinServ Holdings, Keys Merger Sub 1, Inc., Keys Merger Sub 2, LLC, and any and all of their respective current and former directors, officers, employees, employers, parent entities, controlling persons, owners, members, principals, affiliates, subsidiaries, managers, partners, limited partners, general partners, stockholders, representatives, attorneys, financial or investment advisors, consultants, accountants, investment bankers, commercial bankers, agents, heirs, executors, trustees, personal representatives, estates, administrators, predecessors, successors, assigns, insurers, and reinsurers.

“Released Plaintiff’s Claims” means all actions, causes of action, suits, liabilities, claims, rights of action, debts, sums of money, covenants, contracts, controversies, agreements, promises, damages, contributions, indemnities, and demands of every nature and description, whether or not currently asserted, whether known claims or Unknown Claims, suspected, existing, or discoverable, whether arising under federal, state, common, or foreign law, whether based in contract, tort, statute, law, equity, or otherwise (including, but not limited to, federal and state securities laws), that Plaintiff or any other Class Member (i) asserted in the Complaint; or (ii) could have asserted in the Complaint or in any other court, tribunal, proceeding, or other forum that relate to the ownership of FinServ Class A common stock or warrants as of the closing of the de-SPAC Transaction on June 9, 2021 and are based on, arise out of, or relate to the same set of operative facts as those set forth in the Complaint, including but not limited to claims relating to (A) any statements, representations, misrepresentations, or omissions in the Proxy, or (B) any other disclosures relating to the de-SPAC Transaction. Released Plaintiff’s Claims do not include: (1) any claims arising from conduct occurring after the date of the de-SPAC Transaction; (2) any claims to enforce the terms of this Settlement; or (3) any claims asserted in the New York Action (collectively, the “Excluded Plaintiff’s Claims”).

“Released Plaintiff’s Persons” means Plaintiff, all other Class Members, Plaintiff’s Counsel, and any and all of their respective current and former directors, officers, employees, employers, parent entities, controlling persons, owners, members, principals, affiliates, subsidiaries, managers, partners, limited partners, general partners, stockholders, representatives, attorneys, financial or investment advisors, consultants, accountants, investment bankers, commercial bankers, agents, heirs, executors, trustees, personal representatives, estates, administrators, predecessors, successors, assigns, insurers, and reinsurers.

“Unknown Claims” means (i) any Released Plaintiff’s Claims that Plaintiff or any other Settlement Class Member does not know or suspect to exist in his, her, or its favor at the time of the release of the Released Defendants’ Persons, and (ii) any Released Defendants’ Claims that any Defendant does not know or suspect to exist in his, her, or its favor at the time of the release of the Released Plaintiff’s Persons, including, without limitation, those which, if known, might have affected the decision to enter into the Settlement or to object or not to object to the Settlement. With respect to any and all Released Claims, the Parties stipulate and agree that, upon the Effective Date of the Settlement, the Parties shall expressly, and by operation of the Order and Final Judgment, each Settlement Class Member shall be deemed to have, and shall have, expressly waived, relinquished, and released any and all provisions, rights, and benefits conferred by or under Cal. Civ. Code § 1542 or any law of the United States or any state of the United States or territory of the United States, or principle of common law, that is similar, comparable, or equivalent to Cal. Civ. Code § 1542, which provides:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

The Parties acknowledge, and Class Members by operation of law shall be deemed to have acknowledged, that they may discover facts in addition to or different from those now known or believed to be true with respect to the Released Claims, but that it is the intention of the Parties and the Class Members (by operation of law), to completely, fully, finally, and forever extinguish any and all of the Released Claims, known or unknown, suspected or unsuspected, which now exist, heretofore existed, or may hereafter exist, and without regard to the subsequent discovery of additional or different facts. The Parties acknowledge, and Class Members by operation of law shall be deemed to have acknowledged, that the inclusion of “Unknown Claims” in the definition of “Released Plaintiff’s Claims” and “Released Defendants’ Claims” was separately bargained for and was a material element of the Settlement and was relied upon by the Parties in entering into this Stipulation.

43. By Order of the Court, (i) all proceedings in the Action, other than proceedings necessary to carry out or enforce the terms and conditions of the Stipulation, have been stayed, and (ii) pending final determination of whether the Settlement should be approved, Plaintiff and each of the other Class Members are barred and enjoined from commencing, instigating, or prosecuting the Released Plaintiff’s Claims against the Released Defendants’ Persons.

#### **HOW WILL PLAINTIFF’S COUNSEL BE PAID?**

44. Plaintiff’s Counsel have not received any payment for their services in pursuing claims in the Action on behalf of the Settlement Class, nor have Plaintiff’s Counsel been paid for their Litigation Expenses incurred in connection with the Action. In connection with the Settlement, Plaintiff’s Counsel will apply to the Court for a Fee and Expense Award to be paid solely from (and out of) the Delaware Settlement Fund. In connection with Plaintiff’s Counsel’s

application for a Fee and Expense Award, Plaintiff may petition the Court for an Incentive Award to be paid solely from any Fee and Expense Award to Plaintiff's Counsel.

45. The Fee and Expense Award will include a request for an award of attorneys' fees inclusive of Plaintiff's Counsel's Litigation Expenses in a total amount not to exceed 20% of the Delaware Settlement Fund (in combination of cash and stock in the same proportion that the Delaware Cash Settlement Amount and the Delaware Settlement Shares comprise the Delaware Settlement Consideration). In connection with the Fee and Expense Award application, Plaintiff may petition the Court for an Incentive Award not to exceed \$5,000 to be paid solely from any Fee and Expense Award to Plaintiff's Counsel.

46. The Court will determine the amount of any Fee and Expense Award to Plaintiff's Counsel and any Incentive Award to Plaintiff. Any Fee and Expense Award will be paid out of the Settlement Fund and any Incentive Award will be paid solely from any Fee and Expense Award. Class Members are not personally liable for any such fees or expenses.

**WHEN AND WHERE WILL THE SETTLEMENT HEARING BE HELD?  
DO I HAVE TO ATTEND THE HEARING?  
MAY I SPEAK AT THE HEARING IF I DON'T LIKE THE SETTLEMENT?**

47. **Class Members do not need to attend the Settlement Hearing. The Court will consider any submission made in accordance with the provisions below even if a Class Member does not attend the Settlement Hearing. Class Members can recover from the Settlement without attending the Settlement Hearing.**

48. Please Note: The date and time of the Settlement Hearing may change without further written notice to Class Members. In addition, the Court may decide to conduct the Settlement Hearing remotely by telephone or videoconference, or otherwise allow Class Members to appear at the hearing remotely by phone or video, without further written notice to Class Members. **In order to determine whether the date and time of the Settlement Hearing have changed, or whether Class Members must or may participate remotely by phone or video, it is important that you monitor the Court's docket and the Settlement website, [www.FinServAcquisitionCorpSPACLitigation.com](http://www.FinServAcquisitionCorpSPACLitigation.com), before making any plans to attend the Settlement Hearing. Any updates regarding the Settlement Hearing, including any changes to the date or time of the hearing, or updates regarding in-person or remote appearances at the hearing, will be posted to the Settlement website, [www.FinServAcquisitionCorpSPACLitigation.com](http://www.FinServAcquisitionCorpSPACLitigation.com). Also, if the Court requires or allows Class Members to participate in the Settlement Hearing remotely by telephone or videoconference, the information needed to access the conference will be posted to the Settlement website, [www.FinServAcquisitionCorpSPACLitigation.com](http://www.FinServAcquisitionCorpSPACLitigation.com).**

49. The Settlement Hearing will be held in person on **October 10, 2024, at 3:15 p.m.**, before The Honorable Paul A. Fioravanti, Jr., Vice Chancellor, at the Court of Chancery of the State of Delaware, New Castle County, Leonard L. Williams Justice Center, 500 North King Street, Wilmington, DE 19801, or remotely by telephone or videoconference (in the discretion of the Court), to, among other things: (i) determine whether to finally certify the Settlement Class for settlement purposes only, pursuant to Court of Chancery Rules 23(a), 23(b)(1), and 23(b)(2); (ii) determine whether Plaintiff and Plaintiff's Lead Counsel have adequately represented the Settlement Class, and whether Plaintiff should be finally appointed as Class Representative for the Settlement Class and

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Plaintiff’s Lead Counsel should be finally appointed as Class Counsel for the Settlement Class; (iii) determine whether the proposed Settlement should be approved as fair, reasonable, and adequate to Plaintiff and the other members of the Settlement Class; (iv) determine whether the proposed Order and Final Judgment approving the Settlement, dismissing the Action with prejudice, and granting the Releases provided under the Stipulation should be entered; (v) determine whether the terms and conditions of the issuance of the Delaware Settlement Shares, which shares are to be issued pursuant to the exemption from registration requirements under Section 3(a)(10) of the Securities Act of 1933, are fair to all persons and entities to whom the shares will be issued; (vi) determine whether the proposed Plan of Allocation of the Delaware Net Settlement Fund is fair and reasonable, and should therefore be approved; (vii) determine whether and in what amount any Fee and Expense Award should be paid out of the Delaware Settlement Fund, including any Incentive Award to Plaintiff to be paid solely from any Fee and Expense Award; (viii) hear and rule on any objections to the Settlement, the proposed Plan of Allocation, and Plaintiff’s Counsel’s Fee and Expense Award, including any Incentive Award to Plaintiff; and (ix) consider any other matters that may properly be brought before the Court in connection with the Settlement.

50. Any Class Member may object to the Settlement, the proposed Plan of Allocation, or Plaintiff’s Counsel’s Fee and Expense Award, including Plaintiff’s application for an Incentive Award (“Objector”); *provided, however*, that no Objector shall be heard or entitled to object unless, **on or before September 25, 2024**, such person: (1) files his, her, or its written objection, together with copies of all other papers and briefs supporting the objection, with the Register in Chancery at the address set forth below; (2) serves such papers (electronically by File & ServeXpress, by hand, by first-class U.S. mail, or by express service) on Plaintiff’s Lead Counsel and Defendants’ Counsel at the addresses set forth below; and (3) emails a copy of the written objection to jeroen@blbglaw.com, dsborz@andrewsspringer.com, ahwu@cooley.com, and dmeasley@morrisnichols.com.

<b>REGISTER IN CHANCERY</b>	
Court of Chancery of the State of Delaware New Castle County Leonard L. Williams Justice Center 500 North King Street Wilmington, DE 19801	
<b>PLAINTIFF’S LEAD COUNSEL</b>	
Jeroen van Kwawegen Bernstein Litowitz Berger & Grossmann LLP 1251 Avenue of the Americas 44th Floor New York, NY 10020	David M. Sborz Andrews & Springer LLC 4001 Kennett Pike Suite 250 Wilmington, DE 19807
<b>DEFENDANTS’ COUNSEL</b>	
Aric H. Wu Cooley LLP 55 Hudson Yards New York, NY 10001	D. McKinley Measley Morris, Nichols, Arsht & Tunnell LLP 1201 N. Market Street Wilmington, DE 19801

51. Any objections must: (i) identify the case name and civil action number, “*In re FinServ Acquisition Corp. SPAC Litigation*, C.A. No. 2022-0755-PAF”; (ii) state the name,

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address, and telephone number of the Objector and, if represented by counsel, the name, address, and telephone number of the Objector's counsel; (iii) be signed by the Objector; (iv) state with specificity the grounds for and purpose of the objection, including a detailed statement of the specific legal and factual basis for each and every objection and whether the objection applies only to the Objector, to a specific subset of the Settlement Class, or to the entire Settlement Class; (v) if the Objector has indicated that he, she, or it intends to appear at the Settlement Hearing, identify any witnesses the Objector may call to testify and any exhibits the Objector intends to introduce into evidence at the hearing; and (vi) include documentary evidence sufficient to prove that the Objector is a member of the Settlement Class. Plaintiff's Lead Counsel are authorized to request from any Objector additional information or documentation sufficient to prove that the Objector is a member of the Settlement Class.

52. You may file a written objection without having to appear at the Settlement Hearing. You may not, however, appear at the Settlement Hearing to present your objection unless you first file and serve a written objection in accordance with the procedures described above, unless the Court orders otherwise.

53. If you wish to be heard orally at the hearing in opposition to the approval of the Settlement, the Plan of Allocation, or Plaintiff's Counsel's Fee and Expense Award, including Plaintiff's application for an Incentive Award (assuming you timely file and serve a written objection as described above), you must also file a notice of appearance with the Register in Chancery and serve it on Plaintiff's Lead Counsel and Defendants' Counsel at the mailing and email addresses set forth in paragraph 50 above so that the notice is **received on or before September 25, 2024**. Such persons may be heard orally at the discretion of the Court.

54. 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 Plaintiff's Lead Counsel and Defendants' Counsel at the mailing and email addresses set forth in paragraph 50 above so that the notice is **received on or before September 25, 2024**.

55. The Settlement Hearing may be adjourned by the Court without further written notice to Class Members. If you intend to attend the Settlement Hearing, you should confirm the date, time, and location with Plaintiff's Lead Counsel.

56. **Unless the Court orders otherwise, any Class Member who does not object in the manner described above will be deemed to have waived any objection (including the right to appeal) and shall be forever foreclosed from making any objection to the proposed Settlement, the proposed Plan of Allocation, Plaintiff's Counsel's Fee and Expense Award, including Plaintiff's application for an Incentive Award, or any other matter related to the Settlement or the Action, and will otherwise be bound by the Order and Final Judgment to be entered and the Releases to be given.**

<b>CAN I SEE THE COURT FILE? WHOM SHOULD I CONTACT IF I HAVE QUESTIONS?</b>
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57. This Notice contains only a summary of the terms of the proposed Settlement. For more detailed information about the matters involved in the Action, you are referred to the papers

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on file in the Action, including the Stipulation, which may be inspected during regular office hours at the Office of the Register in Chancery in the Court of Chancery of the State of Delaware, New Castle County, Leonard L. Williams Justice Center, 500 North King Street, Wilmington, DE 19801. Additionally, copies of the Stipulation and any related orders entered by the Court will be posted on the Settlement website, [www.FinServAcquisitionCorpSPACLitigation.com](http://www.FinServAcquisitionCorpSPACLitigation.com). If you have questions regarding the Settlement, you may contact the Settlement Administrator by mail at FinServ Acquisition Corp. SPAC Litigation, c/o JND Legal Administration, PO Box 91493, Seattle, WA 98111; by telephone at 844-552-0061; or by email at [info@FinServAcquisitionCorpSPACLitigation.com](mailto:info@FinServAcquisitionCorpSPACLitigation.com). You may also contact Plaintiff's Lead Counsel: (i) Jeroen van Kwawegen, Bernstein Litowitz Berger & Grossmann LLP, 1251 Avenue of the Americas, 44th Floor, New York, NY 10020, 800-380-8496 (telephone), and [settlements@blbglaw.com](mailto:settlements@blbglaw.com) (email); or (ii) David M. Sborz, Andrews & Springer LLC, 4001 Kennett Pike, Suite 250, Wilmington, DE 19807, (302) 231-2388 (telephone), [dsborz@andrewsspringer.com](mailto:dsborz@andrewsspringer.com) (email). Do not contact the Court or its staff with questions about the terms of the proposed Settlement.

#### **WHAT IF I HELD SHARES ON SOMEONE ELSE'S BEHALF?**

58. If you are a broker or other nominee that held FinServ Class A common stock as of the closing of the de-SPAC Transaction on June 9, 2021 for the beneficial interest of persons or entities other than yourself, you are requested to either: (i) within seven calendar days of receipt of this Notice, request from the Settlement Administrator sufficient copies of this Notice to forward to all such beneficial owners and within seven calendar days of receipt of those Notices forward them to all such beneficial owners; or (ii) within seven calendar days of receipt of this Notice, provide a list of the names, addresses, and, if available, email addresses of all such beneficial owners to FinServ Acquisition Corp. SPAC Litigation, c/o JND Legal Administration, PO Box 91493, Seattle, WA 98111. If you choose the second option, the Settlement Administrator will send a copy of the Notice to the beneficial owners. Upon full compliance with these directions, such nominees may seek reimbursement of their reasonable expenses actually incurred by providing the Settlement Administrator with proper documentation supporting the expenses for which reimbursement is sought. A copy of this Notice may also be obtained from the Settlement website, [www.FinServAcquisitionCorpSPACLitigation.com](http://www.FinServAcquisitionCorpSPACLitigation.com), by calling the Settlement Administrator toll free at 844-552-0061, or by emailing the Settlement Administrator at [FSVSecurities@jndla.com](mailto:FSVSecurities@jndla.com).

#### **DO NOT CALL OR WRITE THE COURT OR THE OFFICE OF THE REGISTER IN CHANCERY ABOUT THIS NOTICE OR QUESTIONS ABOUT THE TERMS OF THE PROPOSED SETTLEMENT**

Dated: August 9, 2024

BY ORDER OF THE COURT OF  
CHANCERY OF THE STATE OF  
DELAWARE

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