

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 74154 / January 27, 2015

ADMINISTRATIVE PROCEEDING
File No. 3-12628

In the Matter of

**ZURICH CAPITAL MARKETS
INC.,**

Respondent.

**ORDER AUTHORIZING THE TRANSFER
OF RESIDUAL FUNDS AND ANY FUTURE
FUNDS RETURNED TO THE FAIR FUND
TO THE U.S. TREASURY, DISCHARGING
THE FUND ADMINISTRATOR AND
TERMINATING THE FAIR FUND**

On May 7, 2007, the Commission issued an order instituting and simultaneously settling public administrative and cease-and-desist proceedings (the “Order”) against Zurich Capital Markets Inc. (“Respondent”) in this matter.¹ In the Order, the Commission found that Respondent, an entity that provided financing, aided and abetted four hedge funds that were carrying out schemes to defraud mutual funds that prohibited market timing. Respondent came to learn that the hedge funds were utilizing deceptive practices to market time mutual funds, and nonetheless Respondent provided financing to them and took administrative steps that substantially assisted them from 1999 through 2003. The Order established a Fair Fund, comprised of \$16.8 million in disgorgement, prejudgment interest, and penalty paid by Respondent, and provided that the Fair Fund was to be distributed pursuant to a plan developed by Respondent, in consultation with the staff of the Commission and with the assistance of an expert consultant. On June 3, 2010, the Commission issued an order approving the distribution plan.²

The Plan of Distribution (“Plan”) provides that the Fair Fund be distributed by the Fund Administrator to affected mutual funds, according to the methodology set forth in the Plan. On

¹ See Exchange Act Release No. 55711 (May 7, 2007).

² See Exchange Act Release No. 62217 (June 3, 2010).

December 2, 2010, the Commission entered an order directing disbursement of \$17,264,322.93,³ and on December 5, 2010 this amount was distributed to the affected mutual funds. All distributions have been made to and accepted by the mutual funds, and no amounts were returned to the Fair Fund.

The Plan provides that the Fair Fund shall be eligible for termination, and the Fund Administrator shall be discharged, after all of the following have occurred: (1) a final accounting has been submitted by the Fund Administrator for approval of, and has been approved by, the Commission; (2) all taxes, fees and expenses have been paid; and (3) any amount remaining in the Fair Fund has been received by the Commission. A final accounting, which was submitted to the Commission for approval as required by Rule 1105(f) of the Commission's Rules on Fair Fund and Disgorgement Plans and as set forth in the Plan, is now approved. Staff has verified that all taxes, fees, and expenses have been paid, and the Commission is in possession of the remaining Fair Fund monies.

Accordingly, IT IS ORDERED that:

- A. The remaining Fair Fund balance of \$164,908.76 and any future funds returned to the Fair Fund shall be transferred to the U.S. Treasury;
- B. The Fair Fund is terminated; and
- C. The Fund Administrator, Vincent A. Warther, is discharged.

By the Commission.

Brent J. Fields
Secretary

³ See Exchange Act Release No. 63420 (Dec. 2, 2010).