

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

Administrative Proceedings Rulings
Release No. 6297 / November 6, 2018

Administrative Proceeding
File No. 3-17595

In the Matter of

**Och-Ziff Capital Management
Group LLC,
OZ Management LP,
Daniel S. Och, and
Joel M. Frank**

**Order Denying Joint
Proposal to Set a Schedule**

The order instituting proceedings (OIP) directs that a hearing be convened “following the entry of a final judgment against the last remaining defendant(s) in ... all actions related to the conduct described herein (the ‘Related Actions’).” OIP at 44-45. Based on the information proffered by the parties in their joint status report, I find that two pending criminal matters, *United States v. OZ Africa Management GP*, No. 16-cr-515 (E.D.N.Y.), and *United States v. Cohen*, No. 17-cr-544 (E.D.N.Y.), are Related Actions. This finding accords with the parties’ conclusion that “the overlap” between the OIP and the criminal charging documents “is overwhelming and clearly supports the parties’ conclusion that those matters relate to the conduct in the OIP.” Joint Status Report 4-5.

The parties nevertheless wish for this matter to proceed and jointly proposed that I set a schedule for briefing and a hearing. They interpret “Related Actions” to encompass “only SEC actions related to the conduct in the OIP” and not criminal cases. *Id.* at 5. This interpretation is based on the parties’ intent when they entered into the partial settlement that led to the OIP. *Id.*

But the parties acknowledge, as they must, that the language in the OIP “appears broader than ‘civil actions involving the SEC.’” Joint Status Report 5. Although their cooperation is commendable, and their desire to resolve this matter quickly is understandable, the OIP is clear on its face and

governs my authority to proceed, regardless of the parties' intent in entering into the partial settlement. Therefore, because *United States v. OZ Africa Management GP* and *United States v. Cohen* are Related Actions, I cannot convene a hearing until final judgments have been entered in them.

If the parties wish to proceed before those final judgments are issued, the appropriate remedy is for the Division of Enforcement to move the Securities and Exchange Commission to amend the OIP.

Cameron Elliot
Administrative Law Judge