

UNITED STATES DISTRICT COURT
DISTRICT OF COLUMBIA

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

J.P. MORGAN SECURITIES LLC, EMC
MORTGAGE, LLC, BEAR STEARNS
ASSET BACKED SECURITIES I, LLC,
STRUCTURED ASSET MORTGAGE
INVESTMENTS II, INC., SACO I, INC.,
and J.P. MORGAN ACCEPTANCE
CORPORATION I,

Defendants.

12-CV-1862 (RLW)

ECF Case

PROPOSED PLAN OF DISTRIBUTION
BULK SETTLEMENT PRACTICE

A. Introduction

1. On January 7, 2013, the Court entered a Final Judgment (“Final Judgment”)¹ as to J.P. Morgan Securities LLC (“JP Morgan”), EMC Mortgage, LLC (“EMC”), Bear Stearns Asset Backed Securities I, LLC (“BSABS”), Structured Asset Mortgage Investments II, Inc. (“SAMI”), SACO I, Inc. (“SACO”) and J.P. Morgan Acceptance Corporation I (“JPMAC”) (collectively, “Defendants”) pursuant to Rule 54(b) of the Federal Rules of Civil Procedure. Pursuant to the Final Judgment, Defendants paid disgorgement of \$137,800,000, prejudgment interest of

¹ See Final Judgment as to Defendants J.P. Morgan Securities LLC, EMC Mortgage, LLC, Bear Stearns Asset Backed Securities I, LLC, Structured Asset Mortgage Investments II, Inc., SACO I, Inc., and J.P. Morgan Acceptance Corporation I, Docket No. 3.

\$24,265,536, and a civil money penalty of \$60,350,000 for conduct related to the bulk settlement practice, for a total of \$222,415,536 to be distributed to harmed investors.²

2. On March 11, 2014, the Court created two (2) fair funds pursuant to Section 308(a) of the Sarbanes-Oxley Act of 2002, as amended by the Dodd-Frank Act of 2010. One (1) fair fund consists of the “JP Morgan Bulk Settlement Practice Fair Fund” or “Bulk Settlement Practice Fair Fund,” as defined in paragraph 23 below, and includes the funds deposited with the Commission under the case name designation “SEC v. JP Morgan Securities LLC et al., D-03185-B1” plus interest earned on those funds minus any tax obligations and investment fees. This plan refers solely to the Bulk Settlement Practice Fair Fund.

3. In its Complaint, the Commission alleged that from approximately 2005 to 2007, certain of the Defendants entered into financial settlements with loan originators related to early defaulting loans that Defendants had previously sold to residential mortgage backed securities trusts (“RMBS Trusts”). Defendant EMC, as sponsor, purchased mortgage loans from loan originators and other loan sellers, sold the loans to affiliated depositor entities, Defendants BSABS, SAMI, and SACO, for resale to the RMBS Trusts. The assets of the RMBS Trusts were aggregations of residential mortgages. Each Trust was divided into numerous “tranches” or classes which were securitized interests in the assets of the relevant Trust.

4. When Defendants entered into the financial settlements with loan originators, Defendants kept the proceeds of those settlements without notifying the RMBS Trusts that owned the defaulting loans or passing the proceeds on to the RMBS Trusts (“Bulk Settlement

² In its Complaint, the Commission alleged that Defendants JP Morgan, EMC, BSABS, SAMI, and SACO were involved in the bulk settlement practice. The Commission did not allege that Defendant JPMAC was involved in the bulk settlement practice. Accordingly, the Final Judgment ordered only JP Morgan, EMC, BSABS, SAMI and SACO to make payments associated with that practice.

Practice”). Defendants failed to disclose this practice to its RMBS investors. As a result of this conduct, Defendants improperly obtained \$137,800,000.

5. The purpose of this distribution is to compensate initial investors in RMBS Trusts harmed by Defendants’ misrepresentations and omissions in offering materials regarding the Bulk Settlement Practice. The proposed distribution methodology allocates the Bulk Settlement Practice Fair Fund amongst the RMBS Trusts based on the proportion of the total ill-gotten gains obtained by Defendants attributable to loans subject to the Bulk Settlement Practice owned by each Trust. The funds are then allocated to each Trust’s Eligible Claimants based on the proportion of their claim to all other Eligible Claims for the Trust.

6. Pursuant to the Final Judgment, Defendants will pay all administrative costs and expenses of the distribution, including the fees and expenses of the Tax Administrator and Distribution Agent. The Tax Administrator and Distribution Agent will submit invoices directly to Defendants for payment with copies to Commission staff.

7. The Commission has custody of the Bulk Settlement Practice Fair Fund and shall retain control of the assets of the Bulk Settlement Practice Fair Fund. The Bulk Settlement Practice Fair Fund is currently deposited in a Commission designated interest bearing account at the United States Department of Treasury (“Treasury”) under the case name designation “SEC v. JP Morgan Securities LLC et al., D-03185-B1”, where it will be held until a disbursement occurs. It is not anticipated that the Bulk Settlement Practice Fair Fund will receive additional funds, other than accumulated interest and earnings from investments.

8. The Court appointed Damasco & Associates, LLP as the Tax Administrator on May 10, 2013.³

³ See Order to Appoint Tax Administrator, Docket No. 6.

9. The Court issued an order appointing Rust Consulting, Inc. (“Rust”) as the Distribution Agent on March 11, 2014.⁴

10. This Plan of Distribution (“Plan”) sets forth the proposed methods and procedures for distributing the Bulk Settlement Practice Fair Fund. This Plan is subject to approval by the Court, and the Court retains jurisdiction over the implementation of this Plan.

B. Definitions

As used herein, the following definitions shall apply:

11. “Certificates” shall mean the securities that represent the different tranches of each of the Trusts.

12. “Claim Deficiency Notice” means the notice sent by the Distribution Agent to a Potentially Eligible Claimant whose claim is deficient in one or more ways (e.g., failure to provide required information or documentation). The Claim Deficiency Notice shall advise the Potentially Eligible Claimant of the reason(s) for the deficiency and the opportunity to cure such deficiency. Subject to certain extensions provided for in this Plan, the deadline to cure deficiencies shall be thirty (30) days from the date of the Claims Deficiency Notice.

13. “Days” shall mean calendar days, unless specified otherwise.

14. “Distribution Agent” shall mean Rust, the firm appointed by the Court to assist with the administration and distribution of the Bulk Settlement Practice Fair Fund in accordance with the terms of this Plan and the Court’s orders.

15. “Distribution *De Minimis* Amount” is \$250.00. No Eligible Claimant shall receive a distribution payment unless the preliminary calculation performed pursuant to paragraphs 56 through 60, below, is equal to or greater than \$250.00. For purposes of satisfying

⁴ See Order to Establish a Fair Fund and to Appoint a Distribution Agent, Docket No. 11.

the Distribution *De Minimis* Amount requirement, the preliminary calculation for each Harmed Trust will stand on its own and any request that it be combined with any other preliminary calculations for other Harmed Trusts, Recognized Claims for other Harmed Trusts, or other Proof of Claim Forms submitted by or relating to the same Eligible Claimant will not be allowed.

16. “Eligible Certificates” shall mean the Certificates in the Harmed Trusts which are identified in Exhibit A to this Plan of Distribution.

17. “Eligible Claimant” shall mean a person (other than an Excluded Party) who purchased Eligible Certificates on Eligible Purchase Dates.

18. “Eligible Purchase Dates” shall mean purchases of Eligible Certificates in a Trust which were made within 30 days of the issuance of the relevant prospectus supplement for that Trust.

19. “Excluded Certificates” shall mean those Certificates identified in the relevant prospectus supplements as “Non-Offered Certificates” and those Certificates designated residual certificates with negligible initial principal value. Exhibit A to the Plan of Distribution lists the Harmed Trusts, Eligible Certificates for each Trust, CUSIP, and the Eligible Purchase Dates for each Trust.

20. “Excluded Parties” shall mean Defendants and all other entities or individuals who (a) are or have at any time been a parent, subsidiary, affiliate, partner, or member of any of the Defendants; (b) exercised control of or were controlled by any of the Defendants; or (c) during the period 2005 to the present, were employed by, or served as officers or directors, or were members of any of the Defendants or any other entity that is deemed to be an Excluded Party pursuant to parts (a) and (b) hereof. The Proof of Claim Form (defined in paragraph 28

below) will require each Potentially Eligible Claimant (defined in paragraph 27 below) to certify that that they are not an Excluded Party.

21. “Filing Deadline” shall mean the date established in accordance with this Plan by which a Potentially Eligible Claimant’s Proof of Claim Form must be received by the Distribution Agent or postmarked to avoid the barring of any right of the Potentially Eligible Claimant to participate in any distribution from the Bulk Settlement Practice Fair Fund. Subject to certain extensions provided for in this Plan, the Filing Deadline shall be one hundred and twenty (120) days from the initial mailing of the Notice Packet.

22. “Harmed Trusts” shall mean those RMBS Trusts identified as having been harmed by the Bulk Settlement Practice.

23. “JP Morgan Bulk Settlement Practice Fair Fund” or “Bulk Settlement Practice Fair Fund” shall refer to all proceeds paid by the Defendants to comply with the Court’s Final Judgment including disgorgement, prejudgment interest and civil penalties, plus any accumulated interest and earnings thereon.

24. “Net Available Fair Fund” shall mean JP Morgan Bulk Settlement Practice Fair Fund, less any taxes that may be assessed against the JP Morgan Bulk Settlement Practice Fair Fund.

25. “Notice Packet” shall mean a packet that will be mailed to Potentially Eligible Claimants, which shall include, at a minimum, a notice to Potentially Eligible Claimants of their potential right to participate in the distribution of the JP Morgan Bulk Settlement Practice Fair Fund and their obligation to file a Proof of Claim Form in order to participate, the proposed Plan, and a Proof of Claim Form.

26. “Plan of Allocation” refers to the provisions in paragraphs 56-60, which describe the methodology used to calculate a Recognized Claim amount for an Eligible Claimant.

27. “Potentially Eligible Claimant” shall mean any person identified by the Distribution Agent as having possible claims to recover from the Net Available Fair Fund under this Plan, or a person asserting that he, she, or it has possible claims to recover from the Net Available Fair Fund under this Plan.

28. “Proof of Claim Form” shall mean the form designed by the Distribution Agent in accordance with the terms of this Plan for the filing of a claim, which form shall require, at a minimum, sufficient documentation of the Potentially Eligible Claimant’s purchases of Eligible Certificates on Eligible Purchase Dates.

29. “Recognized Claim” shall be the Eligible Claimant’s compensable allocation amount calculated pursuant to the methodology of the Plan of Allocation.

30. “Rejection Notice” shall mean the notice sent by the Distribution Agent to a Potentially Eligible Claimant stating the Distribution Agent’s determination that the Potentially Eligible Claimant’s claim is not eligible to receive any distribution.

31. “Request for Reconsideration Deadline” shall mean the date established in accordance with this Plan by which a Potentially Eligible Claimant’s dispute of a Rejection Notice must be filed to challenge the Rejection Notice. Subject to certain extensions provided for in this Plan, the deadline to file such requests shall be 30 days from the date of Rejection Notice.

32. “Summary Notice Publication” shall mean the notice published in *PR Newswire* and *Investor’s Business Daily*. Such notice (the text of which shall be approved by the Court) shall include, at a minimum, a statement that the Bulk Settlement Practice Fair Fund relates to

purchases of Eligible Certificates during the Eligible Trading Period and the means of obtaining a Notice Packet.

33. “Tax Administrator” shall mean Damasco and Associates, LLP, the Tax Administrator appointed by the Court.

C. Allocation of the Bulk Settlement Practice Fair Fund amongst Eligible Claimants

34. The Net Available Fair Fund shall be distributed to Eligible Claimants as provided under the terms of this Plan.

35. The Net Available Fair Fund shall be distributed on a *pro rata* basis provided that an Eligible Claimant’s Recognized Claim meets or exceeds the Distribution *De Minimis* Amount.

D. Administration of the Claims Procedure

General Administration Provisions

36. The Distribution Agent shall oversee the administration of the claims, procedures, and distribution as provided in this Plan. The Distribution Agent shall review the claims of Potentially Eligible Claimants and make determinations under the criteria established herein as to the eligibility of claimants to recover monies and the amount of money to be distributed from the Net Available Fair Fund to each Eligible Claimant.

37. Any claim asserted by a Potentially Eligible Claimant shall be in writing and shall provide adequate documentary evidence to substantiate the claim, including all documentary evidence that the Distribution Agent deems necessary or appropriate including, but not limited to, if available, account statements and trade confirmations.

38. The recipient of Eligible Certificates as a gift, inheritance, devise, operation of law or, acquired through an exchange for other Eligible Certificates shall be eligible to file a

Proof of Claim Form and participate in the distribution of the JP Morgan Bulk Settlement Practice Fair Fund only to the extent the particular donor or decedent as the actual purchaser of Eligible Certificates would have been eligible. The recipient of Eligible Certificates during the Eligible Trading Period by gift, inheritance, devise, operation of law or, acquired through an exchange for other Eligible Certificates shall not otherwise be eligible to file a Proof of Claim with respect to such certificates, and shall not be deemed the assignee of any claim relating to the purchase of such certificates unless specifically so provided in the instrument of gift or assignment. However, the donee and the donor may not both make a claim with regard to the same Eligible Certificates. If both the donor and the donee make such a claim, only the claim filed by the donee will be honored.

39. Regarding claims on behalf of a retirement plan covered by Section 3(3) of ERISA, 29 U.S.C. § 1002(3), which do not include Individual Retirement Accounts, and for which such claims are properly made by the custodian or fiduciary of the retirement plan and not by the retirement plan's participants, the Distribution Agent shall distribute any payments on such claims directly to the custodian or fiduciary of the retirement plan. The distribution shall be accompanied by a list of retirement plan participants and the number of certificates owned by each retirement plan participant, if that information is known to the Distribution Agent or provided to the Distribution Agent. The custodian or fiduciary of the retirement plan shall distribute any payments received in a manner consistent with its fiduciary duties and the account or retirement plan provisions. With respect to any retirement plan that has been closed prior to the Distribution Agent's identification of Eligible Claimants, the Distribution Agent shall endeavor to distribute funds directly to the beneficial account holders of such retirement plans if

the information required for such a distribution is known to or provided to the Distribution Agent prior to the Filing Deadline.

40. The Distribution Agent shall take reasonable and appropriate steps to distribute the Bulk Settlement Practice Fair Fund according to this Plan. The Distribution Agent will inform Commission staff of any changes needed to this Plan. Upon agreement with Commission staff, the Distribution Agent may implement immaterial changes to this Plan to effectuate the general purposes. If a change is deemed to be material by Commission staff, Court approval is required prior to implementation.

41. The Distribution Agent may extend any procedural deadline contained in this Plan for good cause shown, if agreed upon by the staff of the Commission.

Identification of and Notice to Potentially Eligible Claimants

42. The Distribution Agent shall, insofar as is practicable, identify individual Potentially Eligible Claimants from a review of trading records, account information provided by registered broker-dealers and investment advisers, and any other source available to it.

43. Following the entry by the Court of its order approving this Plan, the Distribution Agent shall:

- a. Design a Notice Packet, which shall be submitted to Commission staff for review and approval.
- b. Create a mailing and claims database, created through the broker/nominee solicitation process, of the Potentially Eligible Claimants;
- c. Run a National Change of Address search to retrieve updated addresses for all records in the new database, thereby ensuring updated mailing information for Potentially Eligible Claimants;

- d. Mail by United States First Class Mail a Notice Packet to each Potentially Eligible Claimant known to the Distribution Agent and brokerages, custodial banks, and other institutions (“Nominal Holders”) that may hold certificates in “street name” as nominees for the benefit of their customers who are the beneficial owners of the certificates;
- e. Establish a specific website, www.JPMorganRMBSFairFunds.com, constructed for the administration of the JP Morgan Bulk Settlement Practice Fair Fund from which each Potentially Eligible Claimant may obtain a copy of the Plan, Notice Packet and other relevant documents online;
- f. Provide a copy of the Plan and Summary Notice Publication to Commission staff for posting to the Information for Harmed Investors page of SEC.gov and establishing a link to the JP Morgan Bulk Settlement Practice Fair Fund’s website;
- g. Establish a toll-free telephone call-in number by which Potentially Eligible Claimants can obtain information about the Bulk Settlement Practice Fair Fund;
- h. Publish a copy of the Summary Notice Publication, approved by Commission staff, in *PR Newswire* and *Investor’s Business Daily*; and
- i. Deliver electronic copies of the Proof of Claim Form to electronic filers who regularly submit electronic claims on behalf of their clients.

44. On an on-going basis, after the first Notice Packet is mailed but before the Filing Deadline, the Distribution Agent shall continue to supply the Notice Packet to Potentially

Eligible Claimants who contact the Distribution Agent requesting a copy via mail, phone or e-mail.

45. The Distribution Agent shall attempt to locate any Potentially Eligible Claimant whose Notice Packet has been returned by the U.S. Postal Service (“USPS”) as undeliverable, using an information supplier that Rust subscribes to. The Distribution Agent shall promptly re-mail any returned undelivered mail for which the USPS has provided a forwarding address.

46. Unless extended by the Court or pursuant to paragraph 47 below, the claims period shall be no more than one hundred and twenty (120) days from the earliest date of mailing of Notice Packets to Potentially Eligible Claimants.

47. To avoid being barred from asserting a claim, on or before the Filing Deadline, each Potentially Eligible Claimant must submit to the Distribution Agent a properly completed Proof of Claim Form reflecting such Potentially Eligible Claimant’s claim, together with all required supporting documentation. The Distribution Agent may extend the Filing Deadline for one or more Potentially Eligible Claimants for good cause shown, with approval by Commission staff, in which event such extension shall constitute the Filing Deadline for such Potentially Eligible Claimants. Such decisions of the Distribution Agent and Commission staff are final and not subject to challenge. The burden shall be upon the Eligible Claimant to ensure that its Proof of Claim Form has been timely received by the Distribution Agent.

Review of Claims, and Notification of Claims Determination, Including Notice of Deficient Claims and Opportunity to Cure

48. The Distribution Agent shall review each Proof of Claim Form received to determine the validity and amount of such Potentially Eligible Claimant's claim, together with any additional conclusions of the Distribution Agent on other issues relevant to the claim. Each Potentially Eligible Claimant shall have the burden of proof to establish the validity and amount

of his, her, or its claim, and that he, she, or it qualifies as an Eligible Claimant; and the Distribution Agent shall have the right to request, and the Potentially Eligible Claimant shall have the burden of providing to the Distribution Agent, any additional information and/or documentation deemed relevant by the Distribution Agent.

49. The Distribution Agent shall provide to each Potentially Eligible Claimant whose claim is deficient, in whole or in part, a Claim Deficiency Notice setting forth the reason(s) why the claim is deficient and instructions on how to cure the deficiency.

50. Any Potentially Eligible Claimant who has received a Claim Deficiency Notice shall have thirty (30) days from the date of the Claim Deficiency Notice to cure any deficiencies identified in the Claim Deficiency Notice.

51. A Potentially Eligible Claimant who has failed to file an appropriate Proof of Claim in a timely manner, or who has failed to cure a deficiency in a timely manner identified in a Claim Deficiency Notice, is not permitted to object to the barring or denial of his, her, or its claim on the basis that:

- a. The Distribution Agent failed to mail, or properly to mail, or that such Potentially Eligible Claimant failed to receive, a copy of the Notice Packet, Proof of Claim, Claim Deficiency Notice, or the relevant Rejection Notice;
- b. The Distribution Agent failed to record properly the receipt of an initial Proof of Claim, or a revised Proof of Claim to cure deficiencies, or the requisite supporting documentation; or
- c. A Potentially Eligible Claimant's name and/or proper contact information was not properly recorded in the Distribution Agent's records.

52. In rejecting any Proof of Claim Form, the Distribution Agent shall advise each Potentially Eligible Claimant of the basis for the rejection of the claim by Rejection Notice. Any Potentially Eligible Claimant who objects to the Distribution Agent's determination of eligibility or wishes the Distribution Agent to reconsider its denial must so advise the Distribution Agent in writing with a Request for Reconsideration within thirty (30) calendar days of the date of the Rejection Notice. The Distribution Agent shall promptly consider any such Request for Reconsideration and shall notify the Potentially Eligible Claimant in writing of the decision.

53. All claimants have the burden of providing the Distribution Agent with any changes to his, her or its name or mailing address.

54. All determinations made by the Distribution Agent in accordance with this Plan shall be final.

55. After the Distribution Agent has completed the process of analyzing the claims and determining the amounts to be distributed as provided in this Plan of Distribution, and prior to the distribution of funds from the Net Available Fair Fund, the Distribution Agent shall engage an independent, third-party firm, acceptable to the Commission, to perform a set of agreed upon tasks, review a statistically significant sample of claims and ensure accurate and comprehensive application of the Distribution Plan. The Distribution Agent shall provide the Commission staff with the results of that review together with any written analysis or reports related to the review and, upon request, shall make the firm available to the Commission to respond to questions concerning the review.

Plan of Allocation

56. The Net Available Fair Fund for the Bulk Settlement Practice will be allocated among the Harmed Trusts based on the proportion of the value of the loans subject to the Bulk

Settlement Practice in each Harmed Trust relative to the total disgorgement paid by Defendants. Exhibit B to the Plan of Distribution shows the percentage of the Net Available Fair Fund allocated to each of the Harmed Trusts.

57. Preliminary calculations will be made for all Eligible Claimants in each Harmed Trust on a *pro rata* basis determined by the Eligible Claimant's investment in the Harmed Trust divided by the sum of all Eligible Claimants' investments in the Harmed Trust. For example, if Eligible Claimant A has investments in Eligible Certificates in a certain Harmed Trust equal to 5% of the dollar value of all the investments in Eligible Certificates by all Eligible Claimants in that Trust, the calculation amount for Eligible Claimant A would be 5% of the Net Available Fair Fund allocation for that Trust.

58. After the preliminary calculations have been made, any Eligible Claimant whose preliminary calculation amount is less than the Distribution *De Minimis* Amount will be removed from the pool of Eligible Claimants.

59. Final calculations will then be made for all remaining Eligible Claimants in the relevant Harmed Trust on a *pro rata* basis as described in paragraph 57, above, but excluding Eligible Claimants whose preliminary calculation amounts are less than the Distribution *De Minimis* Amount, to arrive at a Recognized Claim amount. For example, if after claims are eliminated for Eligible Claimants with a preliminary calculation amount of less than the Distribution *De Minimis* Amount, Eligible Claimant A has investments in Eligible Certificates that are 6.5% of the total investments in Eligible Certificates made by all Eligible Claimants in the Trust, then Claimant A's Recognized Claim amount is 6.5% of the Net Available Fair Fund allocation for that Trust.

60. In the event that the number of claims submitted by Eligible Claimants for a particular Harmed Trust is such that an Eligible Claimant would receive a recovery greatly in excess of his, her, or its *Recognized Claim amount if all Eligible Claimants submitted claims related to investments equal to the issued amount of the Harmed Trust* (the “*Projected Minimum Recovery*”), the Distribution Agent, with the agreement of the Commission staff, may use discretion in determining the amount of the Recognized Claims for that particular Harmed Trust. Discretion will not be applied to any Eligible Claimant’s Recognized Claim such that his, her or its distribution payment will be less than the *Projected Minimum Recovery*.

Provisions for the Tax Administrator

61. The Bulk Settlement Practice Fair Fund is a “Qualified Settlement Fund” within the meaning of the regulations issued under Section 468B(g) of the Internal Revenue Code of 1986, as amended. The Tax Administrator is the administrator of such Qualified Settlement Fund, for purposes of Treas. Reg. § 1.468B-2(k)(3)(I), and shall satisfy the tax-related administrative requirements imposed by Treas. Reg. § 1.468B-2, including, but not limited to:

- a. obtaining a taxpayer identification number;
- b. timely requesting funds necessary for the timely payment of all applicable taxes, the timely payment of taxes for which the Tax Administrator has received funds, and the filing of applicable returns; and
- c. fulfilling any information reporting or withholding requirements required for distributions from the Net Available Fair Fund.

62. The Distribution Agent shall cooperate with the Tax Administrator in providing any information necessary to ensure income tax compliance.

63. All taxes will be paid from the Bulk Settlement Practice Fair Fund, subject to the review and approval of Commission staff.

Procedures for Distributing the Bulk Settlement Practice Fair Fund

64. The Distribution Agent shall distribute the Net Available Fair Fund to all Eligible Claimants only after all timely submitted Proof of Claims have been processed and all Potentially Eligible Claimants whose claims have been rejected or disallowed, in whole or in part, have been notified and provided the opportunity to cure pursuant to the procedures set forth above.

65. Within one hundred and twenty (120) days following completion of processing of all Potentially Eligible Claimant disputes and Proof of Claim Forms, the Distribution Agent shall prepare a list of Eligible Claimants and the amount of each Eligible Claimant's Recognized Claim (the "Payment File"). The Recognized Claim amount specified will have already taken into account reserves for taxes, as requested by the Tax Administrator and approved by Commission staff.

66. The Distribution Agent will also provide a "reasonable assurances letter" to the Commission staff, representing that the list of Eligible Claimants: a) was compiled in accordance with this Plan; b) is accurate as to Eligible Claimants' names, addresses, and Recognized Claim amounts; and c) provides all information necessary to make Recognized Claim payments to each Eligible Claimant.

67. Upon receipt of the Payment File and reasonable assurances letter, the Commission staff will seek an order from the Court to disburse the funds identified in the Payment File in accordance with the provisions of this Plan pursuant to Rule 1101(b)(6), 17 C.F.R. § 201.1101(b)(6). Upon issuance of an order to disburse by the Court, Commission staff

will direct the transfer of funds to the “Escrow Account.” The Distribution Agent shall then distribute the funds to Eligible Claimants as provided for in this Plan.

68. Prior to disbursement of the Net Available Fair Fund, the Distribution Agent will establish account(s) described in the following paragraph at a United States commercial bank (the “Bank”), not unacceptable to the staff of the Commission.

69. The Distribution Agent shall establish with the Bank an Escrow Account pursuant to an escrow agreement (the “Escrow Agreement”) to be provided by the staff of the Commission, in the name of and bearing the Employer Identification Number (“EIN”) of the Qualified Settlement Fund as defined in paragraph 61. The Distribution Agent shall also establish with the Bank a separate “Deposit Account” (*e.g.* controlled distribution account, managed distribution account, linked checking and investment account) for the purpose of funding distribution payments to be distributed to Eligible Claimants by the Distribution Agent pursuant to this Plan. The name of each account shall be in the following form: JP Morgan Bulk Settlement Fund (EIN XX-XXXXXXX), as custodian for the benefit of investors allocated a distribution pursuant to the Plan in *Securities and Exchange Commission v. J.P. Morgan Securities LLC, et al.*, 12-CV-1862.

70. During the term of the Escrow Agreement, if invested, the Escrow Account shall be invested and reinvested in short-term United States Treasury securities backed by the full faith and credit of the United States Government or an agency thereof, of a type and term necessary to meet the cash liquidity requirements for payments to Eligible Claimants, and tax obligations, including investment or reinvestment in a bank account insured by the Federal Deposit Insurance Corporation (“FDIC”) up to the guaranteed FDIC limit, or in money market mutual funds registered under the Investment Company Act of 1940 that invest 100% of their assets in direct

obligations of the United States government. The Distribution Agent shall provide duplicate original bank and/or investment statements on any accounts established by the Distribution Agent to the Tax Administrator on a monthly basis and shall assist the Tax Administrator in obtaining mid-cycle statements, as necessary.

71. The Distribution Agent shall deposit or invest funds in the Escrow and Deposit Accounts so as to result in the maximum reasonable net return, taking into account the safety of such deposits or investments. In consultation with the staff of the Commission, the Distribution Agent shall work with the Bank on an ongoing basis to determine an allocation of funds between the Escrow and Deposit Accounts.

72. All funds shall remain in the Escrow Account, separate from bank assets, pursuant to the Escrow Agreement until needed to satisfy a presented check. All Distribution Fund checks presented for payment or electronic transfer will be subject to “positive pay” controls (e.g. check number and check amount) before they are honored by the Bank, at which time funds will be transferred from the Escrow Account to the distribution account to pay the approved checks.

73. All payments to Eligible Claimants shall be preceded or accompanied by a communication that includes, as appropriate: (a) a statement characterizing the distribution; (b) a statement that the tax treatment of the distribution is the responsibility of each recipient and that the recipient should consult his, her or its tax advisor for advice regarding the tax treatment of the distribution; (c) a statement that checks will be void after one hundred twenty (120) days; and (d) contact information for the Distribution Agent, to be used in the event of any questions regarding the distribution. Any such information letter or other mailing to recipients characterizing their distributions shall be submitted to the staff of the Commission for review and approval. Distribution checks, on their face or in the accompanying mailing will clearly indicate

that the money is being distributed from the Bulk Settlement Practice Fair Fund established by the Court to compensate investors for harm as a result of securities law violations.

74. The Distribution Agent, and/or each of its designees, agents and assistants, shall be entitled to rely on all outstanding rules of law, any orders issued by the Court and/or any investor information provided by Commission staff.

75. The submission of the Proof of Claim Form and the receipt and acceptance of a distribution by an Eligible Claimant is not intended to be a release of an Eligible Claimant's rights and claims against any party.

76. All checks will bear a stale date of one hundred twenty (120) days from the date of the check. Checks that are not negotiated before the stale date shall be voided and the issuing financial institution shall be instructed to stop payment on those checks. An Eligible Claimant's claim will be extinguished if he, she or it fails to negotiate his, her or its check by the stale date, and the funds will remain in the Bulk Settlement Practice Fair Fund. If a check reissue has been requested before the stale date, such request is governed by paragraph 78 below.

Returned or Un-Cashed Checks

77. The Distribution Agent shall use its best efforts to make use of reasonable commercially available resources and other reasonably appropriate means to locate all Eligible Claimants whose checks are returned to the Distribution Agent as undeliverable by the U.S. Postal Service. Where new address information becomes available, the Distribution Agent shall repack the distribution check and send it to the new address. Where new address information is not available after a diligent search (and in no event later than one hundred twenty (120) days after the initial mailing of the original check), the check shall be voided and the Distribution Agent shall instruct the issuing financial institution to stop payment on such check. Such

reissued checks will be void either ninety (90) days after issuance or ninety (90) days after the stale date of the original check, whichever is later.

78. The Distribution Agent shall reissue checks to Eligible Claimants upon the receipt of a valid written request from an Eligible Claimant. In cases where an Eligible Claimant is unable to endorse a disbursement check as written (e.g., name change as a result of divorce or Eligible Claimant is deceased), and the Eligible Claimant or its lawful representative requests the reissuance of a disbursement check under a different name, the Distribution Agent will request, and must receive, documentation supporting the change. The Distribution Agent will review the documentation to determine the authenticity and propriety of the change request. If such change request is properly documented, the Distribution Agent will issue an appropriately redrawn check to the requesting party. Such reissued checks will be void either ninety (90) days after issuance or ninety (90) days after the stale date of the original check, whichever is later.

Residual Funds and Final Accounting

79. Approximately nine (9) months following initial distribution, after all taxes of the Net Available Fair Fund have been satisfied, if there are remaining funds from uncashed checks allocated to a Harmed Trust, the Commission staff may at its discretion direct the Distribution Agent to distribute those residual funds to Eligible Claimants, if any, from that Trust who filed claims with the Distribution Agent after the Filing Deadline or who were late in curing a previously rejected claim. The allocation of any residual funds to be distributed to these late claimants would be made only within the Harmed Trust that was the source of the residual funds, and not across any other Harmed Trusts. The late Eligible Claimants will receive a distribution payment up to the Recognized Claim amount that would have been received if the claim had been filed on time, the amount depending on the available residual funds for that harmed Trust.

80. If any funds remain after the payment of claims that were filed late or cured after the Filing Deadline, or if no such claims exist, Commission staff may at its discretion direct the Distribution Agent to reallocate those residual funds on a *pro rata* basis for claims paid and checks cashed to all Eligible Claimants who cashed a distribution check or received an electronic payment and who would receive at least the Distribution *De Minimis* Amount from such re-distribution. The allocation of any residual funds to be distributed to such Eligible Claimants would be made only within the same Harmed Trust that was the source of the residual funds, and not across any other Harmed Trusts. In no event would an Eligible Claimant receive initial and residual distribution payments totaling more than the Recognized Claim amount if re-calculated for those who cashed distribution checks.

81. If, after consultation between the Distribution Agent and Commission staff, a re-distribution described in either paragraph 79 or 80 is not deemed cost effective, the remaining funds may be transmitted to the Commission for transfer to the U.S. Treasury after all final accounting has been completed per the terms of paragraph 85 below.

82. Upon final distribution of the funds, the Distribution Agent shall make arrangement for the final payment of taxes and shall submit a final accounting to the Commission staff in a standard accounting format provided by the staff of the Commission. The Bulk Settlement Practice Fair Fund shall be eligible for termination, and the Distribution Agent eligible for discharge, after all of the following have occurred: (1) the final accounting has been submitted and approved by the Court, (2) all taxes and fees have been paid and (3) any remaining funds have been paid to the Commission for transfer to the United States Treasury.

Filing of Reports and Accountings

83. The Distribution Agent shall provide the Commission a quarterly cash report, in a format to be provided by Commission staff, within twenty (20) days after the end of every calendar quarter. At the request of Commission staff, the Distribution Agent will also provide periodic progress reports, which will inform the Commission staff of the activities and status of the Bulk Settlement Practice Fair Fund during a requested reporting period.

84. When the final distribution is completed, the Distribution Agent shall provide to Commission staff a final report summarizing all tasks undertaken and the outcome of its administrative efforts. In addition to the final report, the Distribution Agent shall submit a final accounting to the Commission staff, as provided in paragraph 82, of all monies received, earned, spent, and distributed in connection with the administration of this Plan in a format provided by Commission staff.

85. Unless the Court directs otherwise, the Distribution Agent will maintain all documents, including documents in any media, for six (6) years after the approval of the final accounting. In addition, upon termination of the Bulk Settlement Practice Fair Fund, the Distribution Agent will shut down the toll-free number and website established specifically for the administration of the Bulk Settlement Practice Fair Fund and transfer any of the remaining funds to the Commission for transfer to the United States Treasury.

Other Rights and Powers

86. The Distribution Agent is authorized to enter into agreements with financial institutions (“Institutions”) as may be appropriate or necessary in the administration of the JPMorgan Bulk Settlement Practice Fair Fund, provided that such Institutions are not excluded pursuant to other provisions of this Plan. In connection with such agreements, the Institutions shall be deemed to be agents of the Distribution Agent under this Plan.