

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES ACT OF 1933
Release No. 10689 / September 17, 2019

SECURITIES EXCHANGE ACT OF 1934
Release No. 86985 / September 17, 2019

INVESTMENT ADVISERS ACT OF 1940
Release No. 5352 / September 17, 2019

ADMINISTRATIVE PROCEEDING
File No. 3-19464

In the Matter of

**RAYMOND JAMES &
ASSOCIATES, INC.,
RAYMOND JAMES
FINANCIAL SERVICES,
INC., and
RAYMOND JAMES
FINANCIAL SERVICES
ADVISORS, INC.,**

Respondents.

**ORDER INSTITUTING ADMINISTRATIVE
AND CEASE-AND-DESIST PROCEEDINGS,
PURSUANT TO SECTION 8A OF THE
SECURITIES ACT OF 1933, SECTION 15(b)
OF THE SECURITIES EXCHANGE ACT OF
1934, AND SECTIONS 203(e) AND 203(k) OF
THE INVESTMENT ADVISERS ACT OF
1940, MAKING FINDINGS, AND IMPOSING
REMEDIAL SANCTIONS AND A CEASE-
AND-DESIST ORDER**

I.

The Securities and Exchange Commission (“Commission”) deems it appropriate and in the public interest that public administrative and cease-and-desist proceedings be, and hereby are, instituted pursuant to Section 8A of the Securities Act of 1933 (“Securities Act”), Section 15(b) of the Securities Exchange Act of 1934 (“Exchange Act”), and Sections 203(e) and 203(k) of the Investment Advisers Act of 1940 (“Advisers Act”) against Raymond James & Associates, Inc. (“RJA”), Raymond James Financial Services, Inc. (“RJFS”), and Raymond James Financial Services Advisors, Inc. (“RJFSA” and collectively “Raymond James” or “Respondents”).

II.

In anticipation of the institution of these proceedings, Respondents have submitted an Offer of Settlement (the “Offer”) which the Commission has determined to accept. Solely for the

purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, and without admitting or denying the findings herein, except as to the Commission's jurisdiction over them and the subject matter of these proceedings, which are admitted, Respondents consent to the entry of this Order Instituting Administrative and Cease-and-Desist Proceedings, Pursuant to Section 8A of the Securities Act of 1933, Section 15(b) of the Securities Exchange Act of 1934, and Sections 203(e) and 203(k) of the Investment Advisers Act of 1940, Making Findings, and Imposing Remedial Sanctions and a Cease-And-Desist Order ("Order"), as set forth below.

III.

On the basis of this Order and Respondents' Offer, the Commission finds¹ that:

Summary

1. At various times, from at least January 2013 through May 2018 ("Relevant Period"), Raymond James engaged in several violations. In particular, RJA and RJFSA (collectively "RJ Advisers") failed to conduct promised suitability reviews for certain advisory accounts, did not adopt policies and procedures reasonably designed to prevent violations concerning the suitability of fee-based advisory accounts, and overvalued certain assets that resulted in charging excess advisory fees; and RJA and RJFS (collectively "RJ Brokers") failed to have a reasonable basis for recommending certain unit investment trust ("UIT") transactions to brokerage customers, and failed to disclose the conflict of interest associated with earning greater compensation when recommending certain securities without providing applicable sales-load discounts to brokerage customers. These failures involved products sold and services provided to retail investors.

2. RJ Advisers' Form ADV Part 2A brochures ("brochures") and compliance policies and procedures provided that they would conduct reviews at specified intervals to determine if advisory accounts remained suitable for clients or if the clients' assets should be moved to a brokerage account. RJ Advisers, however, failed to timely and adequately conduct these reviews. In particular, between January 2013 and September 2017, RJ Advisers failed to properly review 7,708 advisory accounts after they had no securities trading activity for at least 12 months (the "Inactive Accounts") as required by its policies and procedures. The Inactive Accounts paid RJ Advisers approximately \$4.9 million in advisory fees.

3. Raymond James engaged in additional violations that affected both brokerage customers and advisory clients who owned UITs. In particular, RJ Brokers: (1) did not have a reasonable basis for recommending that certain brokerage customers sell certain UIT positions prior to their maturity dates and then repurchase newly-issued UIT positions, which generated approximately \$5.5 million in excess sales charges and affected 2,044 brokerage accounts; and (2) failed to disclose their conflict of interest by recommending UITs without applying almost \$660,000 in applicable sales-load discounts to brokerage customers in 5,468 eligible accounts, for which RJ

¹ The findings herein are made pursuant to Respondents' Offer of Settlement and are not binding on any other person or entity in this or any other proceeding.

Brokers received greater compensation. In addition, RJ Advisers used incorrect UIT valuations to calculate management fees for certain advisory clients, resulting in approximately \$51,000 in excess advisory fees.

Respondents

4. Raymond James & Associates, Inc., a Florida corporation based in St. Petersburg, Florida has been registered with the Commission as an investment adviser since 1974 and as a broker-dealer since 1962. It is a wholly-owned subsidiary of Raymond James Financial, Inc., a publicly held corporation traded on the New York Stock Exchange. As of September 30, 2018, Raymond James & Associates, Inc., managed approximately \$176 billion in assets under management.

5. Raymond James Financial Services, Inc., a Florida corporation based in St. Petersburg, Florida, has been registered with the Commission as a broker-dealer since 1974. It is a wholly-owned subsidiary of Raymond James Financial, Inc.

6. Raymond James Financial Services Advisors, Inc., a Florida corporation based in St. Petersburg, Florida, is an investment adviser registered with the Commission since 2008. It is a wholly-owned subsidiary of Raymond James Financial, Inc. As of September 30, 2018, Raymond James Financial Services Advisors, Inc., managed approximately \$103 billion in assets under management.

Inactive Advisory Accounts

7. Among their advisory services, RJ Advisers, through their financial advisors (“FAs”), provide investment advice to advisory clients in separately managed, fee-based accounts, including RJ Advisers’ Ambassador wrap fee program.² According to RJA’s brochure filed on December 17, 2015, a client in an Ambassador account received “ongoing investment advice and monitoring of securities holdings,” and the client’s FA “will supervise the[] account . . . according to the client’s objectives.” The Ambassador client agreement similarly disclosed that RJA would provide the clients “investment advisory services, including portfolio reviews and recommendations.” The disclosures in RJFSA brochures and client agreements were the same and the disclosures for both firms were consistent from 2013 to 2017.

8. From 2013 to 2017, both RJ Advisers’ brochures and their policies and procedures provided that they would review client accounts to determine, among other things, if keeping a client in an advisory account was suitable or if the client should consider moving to a brokerage account. In particular, RJ Advisers’ brochures stated that their FAs will “regularly monitor[]” client accounts for “suitability.” The brochures further stated that RJ Advisers provided “additional

² RJ Advisers also offer other programs for clients seeking separately managed accounts. Some of these programs present the same issues concerning Inactive Accounts discussed in this Order and the adverse impact to these clients is addressed in Respondents’ self-administered remediation ordered below.

monitoring” of accounts, including conducting their own suitability review. RJ Advisers’ policies and procedures required the firms to conduct a suitability review that included an assessment of whether the client was receiving sufficient investment advisory services to justify remaining in a fee-based advisory account. Account inactivity due to no trading for at least a 12-month period was one of several factors that RJ Advisers used to evaluate whether a client was receiving sufficient investment advisory services.

9. RJ Advisers’ policies and procedures required FAs and the Compliance Department to monitor the Inactive Accounts. Specifically, FAs were to “continually monitor their client accounts,” discuss with clients “the reasons for [account] inactivity,” and “document all client conversations and meetings” to demonstrate “ongoing management of the accounts.” After 12 months of inactivity, RJ Advisers’ policies and procedures directed compliance staff to contact the FA’s branch to confirm in writing that advisory services were being provided to the client. If an account remained inactive for another 12 months, the policies and procedures required compliance staff to seek additional documentation evidencing the provision of advisory services.

10. RJ Advisers failed to adequately and timely conduct a suitability review for the Inactive Accounts contrary to their disclosures and their policies and procedures. Under RJ Advisers’ policies and procedures, the Inactive Accounts should have been timely and properly reviewed due to being inactive for at least 12 months.

11. After the beginning of the Commission staff’s investigation, RJ Advisers conducted suitability reviews, determined that 1,703 of the Inactive Accounts were unsuitable for a fee-based advisory arrangement and converted those to brokerage accounts, and closed an additional 2,112 Inactive Accounts.

12. RJ Advisers failed to adopt and implement reasonably designed policies and procedures concerning inactive advisory account monitoring and review consistent with their representations to their clients. Among other things, RJ Advisers did not have escalation procedures in place if the compliance group did not receive an adequate or timely response to their inquiry from the branch location. Until 2015, the policies and procedures also did not have a deadline for RJ Advisers’ Compliance Department to complete the reviews or reach a resolution regarding account status. Deadlines were later incorporated into the policies and procedures, but the reviews were not implemented in a timely manner. In addition, RJ Advisers did not have policies and procedures in place reasonably designed to determine whether Inactive Accounts were appropriate for conversion to a brokerage arrangement.

UIT Background

13. Raymond James offers UITs to its brokerage customers and advisory clients. A UIT is a registered investment company that holds a portfolio of securities that is not actively managed by an adviser. UIT issuers make a public offering of units, typically for a one to six-month primary offering period, and may support a secondary market. UIT term lengths vary, but a UIT commonly has a maturity date that is between 15 to 24 months from the initial offering date. At maturity, an investor holding a UIT typically has three options: (a) receive the proceeds based on the value of the

investment; (b) rollover the investment into a newly-issued UIT (“rollover”); or (c) under limited circumstances, receive the proportionate share of the securities held in the portfolio, *i.e.*, an in-kind transfer.

14. UIT issuers offer UIT variations to address certain situations. For example, UIT issuers may offer different Committee on Uniform Securities Identification Procedures numbers (“CUSIPs”)³ to account for whether the units are eligible for purchase by a brokerage customer or an advisory client. The fee structure of a UIT also varies based on whether the investor is a brokerage customer or an advisory client. At the time of the conduct described in this Order, brokerage customers generally incurred up-front and deferred sales charges on new money investments and deferred sales charges only on rollover investments. A portion of those sales charges were paid to Raymond James, which typically shared a portion of the proceeds with the registered representative (“RR”) responsible for the sale. Those sales charges for brokerage customers were eligible to be reduced under certain circumstances. Advisory clients did not typically pay a sales charge, but other fees associated with the UIT, which commonly include a one-time creation-and-development fee, were incurred by all investors.

UIT Short-Hold Transactions in Brokerage Accounts

15. Because sales charges and other costs reduce the overall investment return, UITs are often more beneficial for investors who adopt a buy-and-hold strategy. On its website, Raymond James describes UITs as “best suited as buy and hold investments.” UIT issuers provide similar descriptions. For example, one issuer of a UIT that RJ Brokers offer to brokerage customers states in its prospectus that its UITs “should be considered as part of a long-term strategy” and that “[i]nvestors should consider their ability to invest in successive portfolios, if available, at the applicable sales charge.” Repeatedly selling UITs well before their maturity date, often referred to as “short holds,” and then repeatedly purchasing newly-issued UITs caused customers to incur sales charges with greater frequency.

16. On a firm-wide basis, from June 2013 to May 2018, certain RJ Brokers RRs often recommended that brokerage customers liquidate a UIT position in their accounts 100 days or more before the UIT’s maturity date, and then purchase a newly-issued UIT within 30 days after the disposition of the previous UIT position. In many cases, these newly-issued UIT position held similar underlying assets as the liquidated position.

17. These recommendations accelerated the frequency of UIT transactions for affected brokerage customers, thereby increasing the cost over time of investing in UITs. These costs included more sales charges and processing fees for additional trades. Ultimately, engaging in repeated short-hold transactions can significantly reduce a customer’s investment returns.

³ A CUSIP number identifies most financial instruments, including stocks of all registered U.S. and Canadian companies, commercial paper, and U.S. government and municipal bonds.

18. Despite the costs of short-hold transactions, certain RJ Brokers RRs did not reasonably investigate or understand these costs. Between 2012 and 2018, RJ Brokers' review of short-hold transactions focused on a period of time *after* the date of purchase rather than the time *prior* to the maturity date of the UIT. As a result, for short-hold transactions that occurred outside this period, RJ Brokers failed to take into account the additional costs incurred with UITs sold before the maturity date. RJ Brokers did not evaluate whether the RRs had formed a reasonable basis for believing that these recommendations were suitable for their brokerage customers.

19. As a result, RJ Brokers and certain RRs recommended short-hold transactions without a reasonable basis to believe that such transactions were suitable for their brokerage customers, particularly in light of the significant costs. RJ Brokers obtained commissions by means of recommendations that contained implied representations that RJ Brokers and their personnel had formed a reasonable basis for the recommendations when they had not, in fact, done so.

UIT Rollovers in Brokerage Accounts

20. Until June 9, 2017, all UIT issuers on RJ Brokers' retail brokerage platform disclosed in their prospectuses the availability of sales charge discounts for certain rollover transactions when a customer used some or all of the proceeds from a mature or liquidated UIT to buy the newly-issued UIT within 30 days (known as "rollover discounts").⁴ A brokerage customer who received a rollover discount on an eligible UIT paid lower costs and obtained a higher return than a customer who owned the same security but did not receive the discount.

21. From at least January 2013 to June 2017, RJ Brokers failed to properly monitor how rollover discounts were applied to certain eligible brokerage customers. RJ Brokers relied on a software program provided by a third-party vendor to run their trading platform and automatically apply rollover discounts when eligible UIT purchases occurred without adequately reviewing that such discounts were properly applied. The software failed to identify certain scenarios where customers were eligible for rollover discounts.

22. As a result, RJ Brokers received additional compensation from certain brokerage customers because they did not provide the disclosed rollover discounts. RJ Brokers failed to disclose to affected brokerage customers their conflict of interest by recommending UITs without applying applicable rollover discounts, which resulted in greater revenue to RJ Brokers. RJ Brokers also failed to disclose the impact this had on a customer's investment returns.

Advisory Fees Related to UIT Positions

23. The UITs held in RJ Advisers advisory accounts have distinct CUSIPs that reflect the absence of sales charges compared to those held in brokerage accounts of the same UIT

⁴ Beginning June 9, 2017, the UITs offered by RJ Brokers modified their pricing structure to lower the standard sales charge and eliminate the availability of this discount.

investment. During the first few months following the issuance of a UIT, the pricing of the CUSIPs in brokerage accounts diverge from the CUSIPs in advisory accounts despite the fact that each hold the same assets. In particular, for the first few months, the brokerage CUSIP shows a higher unit value than the advisory CUSIP because the impact of the sales charges are reflected on a deferred basis.

24. From at least January 2013 through October 2017, RJ Advisers incorrectly priced certain UIT positions held by advisory clients, overcharging advisory fees associated with those clients who purchased UITs. RJ Advisers charged advisory fees based on a percentage of the value of assets in the account. Instead of applying the advisory CUSIP price, RJ Advisers mistakenly applied the brokerage CUSIP price to calculate the advisory fee for certain UIT positions. Because the brokerage price was higher than the advisory price for the first few months after issuance of the UIT, the assets in advisory client accounts were overvalued. In addition, this inaccurate valuation was reflected in the advisory client's statements. RJ Advisers used this overvalued price to determine advisory fees and consequently overcharged clients.

Violations

25. As a result of the conduct described above, RJ Brokers willfully⁵ violated Sections 17(a)(2) and 17(a)(3) of the Securities Act, which prohibit any person in the offer or sale of securities from obtaining money or property by means of any untrue statement of material fact or any omission to state a material fact necessary in order to make statements made not misleading, and from engaging in any transaction, practice or course of business which operates or would operate as a fraud or deceit upon the purchaser. Violations of Sections 17(a)(2) or 17(a)(3) may rest on a finding of simple negligence. *Aaron v. SEC*, 446 U.S. 680, 697 (1980). Proof of scienter is not required to establish a violation of Sections 17(a)(2) or 17(a)(3). *Id.*

26. As a result of the conduct described above, RJ Advisers willfully violated Section 206(2) of the Advisers Act, which makes it unlawful for any investment adviser “to engage in any transaction, practice, or course of business which operates as a fraud or deceit upon any client or prospective client.” A violation of Section 206(2) may rest on a finding of simple negligence. *SEC v. Steadman*, 967 F.2d 636, 643 n.5 (D.C. Cir. 1992) (citing *SEC v. Capital Gains Research*

⁵ “Willfully,” for purposes of imposing relief under Section 15(b) of the Exchange Act and Section 203(e) of the Advisers Act, “means no more than that the person charged with the duty knows what he is doing.” *Wonsover v. SEC*, 205 F.3d 408, 414 (D.C. Cir. 2000) (quoting *Hughes v. SEC*, 174 F.2d 969, 977 (D.C. Cir. 1949)). There is no requirement that the actor “also be aware that he is violating one of the Rules or Acts.” *Tager v. SEC*, 344 F.2d 5, 8 (2d Cir. 1965). The decision in *The Robare Group, Ltd. v. SEC*, which construed the term “willfully” for purposes of a differently structured statutory provision, does not alter that standard. 922 F.3d 468, 478-79 (D.C. Cir. 2019) (setting forth the showing required to establish that a person has “willfully omit[ted]” material information from a required disclosure in violation of Section 207 of the Advisers Act).

Bureau, Inc., 375 U.S. 180, 195 (1963)). Proof of scienter is not required to establish a violation of Section 206(2). *Id.*

27. As a result of the conduct described above, RJ Advisers willfully violated Section 206(4) of the Advisers Act and Rule 206(4)-7 thereunder, which require a registered investment adviser to, among other things, “[a]dopt and implement written policies and procedures reasonably designed to prevent violation” of the Advisers Act and its rules. Negligence is sufficient to establish a violation of Section 206(4) and Rule 206(4)-7. *Steadman*, 967 F.2d at 647.

Raymond James’s Remedial Efforts and Cooperation

28. After the beginning of the Commission staff’s investigation, Raymond James undertook a number of remedial efforts, which included voluntarily retaining compliance consultants to review its UIT transactions and advisory valuation practices. These actions led Raymond James to self-report the short-hold transaction and UIT advisory fee conduct described in this Order.

29. In determining to accept the Offer, the Commission considered remedial acts promptly undertaken by Raymond James and the cooperation afforded the Commission staff.

IV.

In view of the foregoing, the Commission deems it appropriate and in the public interest to impose the sanctions agreed to in Respondents’ Offer.

Accordingly, pursuant to Section 8A of the Securities Act, Section 15(b) of the Exchange Act, and Sections 203(e) and 203(k) of the Advisers Act, it is hereby ORDERED that:

- A. Respondents RJA and RJFS shall cease and desist from committing or causing any violations and any future violations of Sections 17(a)(2) and 17(a)(3) of the Securities Act.
- B. Respondents RJA and RJFSA shall cease and desist from committing or causing any violations any future violations of Sections 206(2) and 206(4) of the Advisers Act and Rule 206(4)-7 promulgated thereunder.
- C. Respondents RJA, RJFS, and RJFSA are censured.
- D. Respondents RJA, RJFS, and RJFSA shall pay disgorgement, prejudgment interest and a civil money penalty totaling \$15,171,113.81 as follows:
 - (i) Respondents shall, jointly and severally, pay disgorgement of \$11,098,349.01 and prejudgment interest of \$1,072,764.80 consistent with the provisions of this Subsection D and subject to the offset provisions below;

- (ii) Respondents shall, jointly and severally, pay a civil money penalty in the amount of \$3,000,000 within ten (10) days of the entry of this Order to the Securities and Exchange Commission for transfer to the general fund of the United States Treasury, subject to Exchange Act Section 21F(g)(3). If timely payment is not made, additional interest shall accrue pursuant to 31 U.S.C. § 3717.

Payment must be made in one of the following ways:

- (1) Respondent may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;
- (2) Respondent may make direct payment from a bank account via Pay.gov through the SEC website at <http://www.sec.gov/about/offices/ofm.htm>; or
- (3) Respondent may pay by certified check, bank cashier's check, or United States postal money order, made payable to the Securities and Exchange Commission and hand-delivered or mailed to:

Enterprise Services Center
Accounts Receivable Branch
HQ Bldg., Room 181, AMZ-341
6500 South MacArthur Boulevard
Oklahoma City, OK 73169

Payments by check or money order must be accompanied by a cover letter identifying Raymond James & Associates, Inc., Raymond James Financial Services, Inc., and Raymond James Financial Services Advisors, Inc., as Respondents in these proceedings, and the file number of these proceedings; a copy of the cover letter and check or money order must be sent to Jessica M. Weissman, Assistant Regional Director, Miami Regional Office, Securities and Exchange Commission, 801 Brickell Avenue, Suite 1800, Miami, Florida 33131.

- (iii) Within ten (10) days of the entry of this Order, Respondents shall deposit the disgorgement and prejudgment interest proceeds ("Distribution Fund"), less monies already distributed to investors as specified in Paragraph (viii) of this Subsection D, into an escrow account at a financial institution acceptable to the Commission staff and shall provide the Commission staff with evidence of such deposit in a form acceptable to the Commission staff. If timely payment is not made, additional interest shall accrue pursuant to SEC Rule of Practice 600 [17 C.F.R. § 201.600] or 31 U.S.C. § 3717.
- (iv) Respondents shall be responsible for administering the Distribution Fund and may hire a professional acceptable to the Commission, at their own cost, to assist them in the administration of the distribution. All costs of the distribution and the administration of the distribution shall be borne by Respondents; no costs shall be taken from the Distribution Fund.

- (v) The Distribution Fund will reimburse or credit certain current and former Raymond James advisory clients and brokerage customers who were adversely affected by the conduct described in the Order during the period January 1, 2013, through May 31, 2018. Raymond James will provide disgorgement and prejudgment interest to advisory clients and brokerage customers who meet any of the following conditions: (a) certain advisory clients who continued to pay advisory fees after 24 months of inactivity between January 1, 2013, and September 30, 2017, and whose accounts were either closed or converted to brokerage accounts; (b) certain brokerage customers who had five or more UIT short-hold transactions that were sold within 15% of the original purchase price and paid more than 2.7% annually in UIT-related charges between June 1, 2013, and May 31, 2018; (c) brokerage customers who did not receive applicable rollover discounts between January 1, 2013, and June 30, 2017; and (d) advisory clients who overpaid advisory fees between January 1, 2013, and October 18, 2017, as a result of overvaluation of their UIT positions. For advisory clients who meet the criteria in (a), the disgorgement amount related to Inactive Accounts will be calculated starting after 24 months of trading inactivity beginning January 1, 2013.
- (vi) Respondents may, in calculating the appropriate reimbursement to affected brokerage customers, net out any sales charge reductions that a customer received but was ineligible or any reduced advisory fees that an advisory client received but for which he or she was ineligible. Such netting may reduce a customer's reimbursement to \$0, but Respondents will not assess charges to any affected customer if netting such transactions results in the customer owing proceeds to Respondents. Respondents may net transactions within each type of conduct but may not net transactions from another type of conduct.
- (vii) Respondents shall submit a distribution calculation (the "Calculation") to the Commission staff within thirty (30) days of the entry of this Order for review and written approval by the Commission staff. The Calculation submitted to the Commission staff shall identify, at minimum, (a) the name of each affected advisory client and each affected brokerage customer (including the title, number, and address of the relevant account) that will receive a portion of the Distribution Fund; (b) the exact amount of anticipated payment to be made from the Distribution Fund, identifying the disgorgement amount and the prejudgment interest separately for each client and customer; (c) the methodology used to determine the amount of the payment for each form of conduct; and (d) any *de minimis* threshold to be applied. Respondents shall also provide to the Commission staff such additional information and supporting documentation as the Commission staff may reasonably request for the purpose of its review. In the event of one or more objections by the Commission staff to the Calculation and/or any of the information or supporting documentation, Respondents shall submit a revised Calculation for the review and written approval of the Commission staff, and/or additional information or supporting documentation, within ten (10) days of the date that Respondents are notified of the objection, which

revised Calculation shall be subject to all of the provisions of this Subsection. No portion of the Distribution Fund shall be paid to any affected investor account in which Respondents or their past or present officers or directors have a financial interest.

- (viii) Respondents shall complete the disbursement of all amounts payable to affected advisory clients and brokerage customers within seventy-five (75) days of the date of receipt of the Commission staff approval of the Calculation, unless such time period is extended as provided in Paragraph (xiii) of this Subsection D. The amount Respondents pay to affected brokerage customers and advisory clients on or after June 1, 2019, will dollar for dollar offset the amount payable to such clients and customers pursuant to this Subsection D, subject to approval by Commission staff. Respondents shall use their best efforts to distribute all funds in the Distribution Fund to the affected advisory clients and brokerage customers, including performing outreach acceptable to the Commission staff to advisory clients and brokerage customers to which disbursements are directed but distribution is not completed.
- (ix) If Respondents are unable to distribute or return any portion of the Distribution Fund for any reason, Respondents shall transfer any such undistributed funds to the Commission for transmittal to the United States Treasury in accordance with Section 21F(g)(3) of the Securities Exchange Act of 1934 in accordance with Paragraphs (x), (xi), and (xii) of this Subsection D below. Payment must be made in one of the ways set forth in Paragraph (ii) of this Subsection D.
- (x) A Distribution Fund is a Qualified Settlement Fund (“QSF”) under Section 468(B)(g) of the Internal Revenue Code (“IRC”), 26 U.S.C. §§ 1.468B.1 – 1.468B.5. Respondents shall be responsible for any and all tax compliance responsibilities associated with the Distribution Fund, including but not limited to tax obligations resulting from the Distribution Fund’s status as a QSF and the Foreign Account Tax Compliance Act (“FATCA”) and may retain any professional services necessary. The costs and expenses of such professional services shall be borne by Respondents and shall not be paid by the Distribution Fund.
- (xi) After the Calculation has been approved by the Commission staff, Respondent shall submit a payment file (the “Payment File”) for review and acceptance by the Commission staff demonstrating the application of the methodology to each harmed investor. The Payment File should identify, at a minimum, (i) the title and account number of each affected brokerage customer or advisory client; (ii) the exact amount of the payment to be made; and (iii) the amount of any *de minimis* threshold to be applied.
- (xii) Within 90 days after Respondents complete the distribution of the Distribution Fund as described in Paragraph (v) of this Subsection D, Respondents shall return all undisbursed funds to the Commission pursuant to the instruction set forth in Paragraph (ii) of this Subsection D. Respondents shall then submit to the

Commission staff for Commission approval a final accounting and certification of the disposition of the Distribution Fund. The final accounting shall be in a format acceptable to the Commission staff. The final accounting and certification shall include, in addition to the items identified in Paragraph (viii) of this Subsection D: (a) the amount paid or credited to each account; (b) the date of each payment or credit; (c) the total amount, if any, to be forwarded to the Commission for transfer to the United States Treasury; and (d) an affirmation that Respondents have made payments from the Distribution Fund to affected advisory clients and brokerage customers in accordance with the Calculation approved by the Commission staff. Respondents shall submit the final accounting and certification together with proof and supporting documentation of such payment in a form acceptable to the Commission staff under a cover letter that identifies Raymond James & Associates, Inc., Raymond James Financial Services, Inc., and Raymond James Financial Services Advisors, Inc., as Respondents in these proceedings and the file number of these proceedings to Jessica M. Weissman, Assistant Regional Director, Miami Regional Office, Securities and Exchange Commission, 801 Brickell Avenue, Suite 1800, Miami, Florida, 33131, or such other address the Commission staff may provide. Respondents shall provide any supporting documentation for the accounting and certification to the Commission staff upon its request and shall cooperate with any additional requests by the Commission staff in connection with the accounting and certification.

- (xiii) The Commission staff may extend any of the procedural dates set forth in this Subsection D for good cause shown. Deadlines for dates relating to the Distribution Fund shall be counted in calendar days, except that if the last day falls on a weekend or federal holiday the next business day shall be considered to be the last day.

E. Amounts ordered to be paid as civil money penalties pursuant to this Order shall be treated as penalties paid to the government for all purposes, including all tax purposes. To preserve the deterrent effect of the civil penalty, Respondents agree that in any Related Investor Action, they shall not argue that they are entitled to, nor shall they benefit by, offset or reduction of any award of compensatory damages by the amount of any part of Respondents' payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, Respondents agree that they shall, within 30 days after entry of a final order granting the Penalty Offset, notify the Commission's counsel in this action and pay the amount of the Penalty Offset to the Securities and Exchange Commission. Such a payment shall not be deemed an additional civil penalty and shall not be deemed to change the amount of the civil

penalty imposed in this proceeding. For purposes of this Paragraph, a “Related Investor Action” means a private damages action brought against Respondent(s) by or on behalf of one or more investors based on substantially the same facts as alleged in the Order instituted by the Commission in this proceeding.

By the Commission.

Vanessa A. Countryman
Secretary