

**UNITED STATES OF AMERICA**  
**Before the**  
**SECURITIES AND EXCHANGE COMMISSION**

**SECURITIES EXCHANGE ACT OF 1934**  
**Release No. 88287 / February 26, 2020**

**ACCOUNTING AND AUDITING ENFORCEMENT**  
**Release No. 4117 / February 26, 2020**

**ADMINISTRATIVE PROCEEDING**  
**File No. 3-19710**

**In the Matter of**

**RSM US LLP**  
**(f/k/a/ McGladrey LLP),**

**Respondent.**

**ORDER INSTITUTING PUBLIC  
ADMINISTRATIVE PROCEEDINGS  
PURSUANT TO SECTION 4C OF THE  
SECURITIES EXCHANGE ACT OF 1934  
AND RULE 102(e) OF THE  
COMMISSION'S RULES OF  
PRACTICE, MAKING FINDINGS, AND  
IMPOSING REMEDIAL SANCTIONS**

**I.**

The Securities and Exchange Commission (“Commission”) deems it appropriate that public administrative proceedings be, and hereby are, instituted against RSM US LLP (“Respondent” or “RSM”) pursuant to Section 4C<sup>1</sup> of the Securities Exchange Act of 1934 (“Exchange Act”) and Rule 102(e)(1)(ii) of the Commission’s Rules of Practice.<sup>2</sup>

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<sup>1</sup> Section 4C provides, in relevant part, that:

The Commission may censure any person, or deny, temporarily or permanently, to any person the privilege of appearing or practicing before the Commission in any way, if that person is found . . . (1) not to possess the requisite qualifications to represent others; (2) to be lacking in character or integrity, or to have engaged in unethical or improper professional conduct; or (3) to have willfully violated, or willfully aided and abetted the violation of, any provision of the securities laws or the rules and regulations issued thereunder.

<sup>2</sup> Rule 102(e)(1)(ii) provides, in pertinent part, that:

The Commission may . . . deny, temporarily or permanently, the privilege of appearing or practicing before it . . . to any person who is found . . . to have engaged in unethical or improper professional conduct.

## II.

In anticipation of the institution of these proceedings, Respondent has 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 Respondent and the subject matter of these proceedings, which are admitted, Respondent consents to the entry of this Order Instituting Public Administrative Proceedings Pursuant to Section 4C of the Securities Exchange Act of 1934 and Rule 102(e) of the Commission’s Rules of Practice, Making Findings, and Imposing Remedial Sanctions (“Order”), as set forth below.

## III.

On the basis of this Order and Respondent’s Offer, the Commission finds<sup>3</sup> that:

### SUMMARY

1. This matter involves certain deficiencies in RSM’s system of quality control for staffing certain private investment fund financial statement audits for the calendar years ended 2013, 2014, and 2015. For each of those years, RSM performed audits of a series of private pooled investment funds (“Private Funds”) managed by SBB Research Group, LLC (“SBB”), an SEC-registered investment adviser (the “SBB Audits”).<sup>4</sup> The Private Funds invested almost exclusively in structured notes linked to equity indices and valued those investments for purposes of its financial statements using a proprietary valuation model. Due to insufficient quality controls, RSM failed to staff the SBB Audits with appropriate personnel with the necessary competence and capabilities to perform the engagements in accordance with professional standards. The RSM audit team, including assigned internal valuation specialists, lacked the appropriate competence and capabilities to evaluate SBB’s valuation model and the resulting valuations of the structured notes. As a result, RSM’s audit team repeatedly violated professional standards by failing to properly assess, test, and document risks of material misstatement associated with SBB’s valuation of the structured notes.

2. In 2019, RSM resigned as the Private Funds’ auditor and recalled its previously issued audit reports on the Private Funds’ financial statements.

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<sup>3</sup> The findings herein are made pursuant to Respondent’s Offer of Settlement and are not binding on any other person or entity in this or any other proceeding.

<sup>4</sup> This Order references the American Institute of Certified Public Accountants (“AICPA”) standards in effect at the time of the 2013, 2014, and 2015 audits. These standards are encompassed in the Generally Accepted Auditing Standards.

## **RESPONDENT**

3. **RSM US LLP** (formerly known as McGladrey, LLP) (“RSM”), is an accounting and advisory firm headquartered in Chicago, Illinois. Through approximately 80 offices across the country, RSM provides audit, tax, and consulting services. RSM is registered with the Public Company Accounting Oversight Board (“PCAOB”).

## **OTHER RELEVANT PARTIES**

4. **SBB Research Group, LLC** (“SBB”), an Illinois limited liability company headquartered in Northbrook, Illinois, is a registered investment adviser that provides investment advisory services to pooled investment vehicles, private funds, and separately managed accounts.

## **FACTS**

### **A. SBB’s Private Funds**

5. Since 2011, SBB has provided investment advisory services to the Private Funds. SBB implemented similar investment strategies across the Private Funds with structured notes as the primary investment.<sup>5</sup> The notes had varying maturity dates but were generally tied to the performance of the S&P 500 Index and the Russell 2000 Index.

6. The Private Funds represented to prospective and existing investors, and to RSM, that their financial statements were presented, and books of account were maintained, in accordance with generally accepted accounting principles (“GAAP”) and that their investments were recorded at fair value; which SBB defined as “the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date.”

7. ASC 820 sets forth a fair value measurement framework and defines fair value as an “exit price,” the “price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date.” ASC 820-10-20. Under ASC 820, fair value is a “market-based measurement, not an entity-specific measurement” and is measured “using the assumptions that market participants would use when pricing the asset.” ASC 820-10-05-1B, 1C.

8. From approximately December 2011 through November 2016, SBB used an internally developed model to value the structured notes held by the Private Funds (the “Valuation Model”). Contrary to GAAP, SBB knowingly used a valuation methodology and assumptions that resulted in valuations that were inconsistent with the price a market participant would pay to acquire the assets, and were therefore inconsistent with ASC 820.

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<sup>5</sup> Structured notes are unsecured debt securities with payouts that depend on the values of one or more underlying assets. The underlying assets can be individual stocks, indexes, or other calculated values. Structured notes have a fixed maturity and include two components—a bond component and an embedded derivative.

9. The modifications introduced inappropriate bias into SBB's model and inflated note values and smoothed returns. Since structured notes constituted more than 90% of the Private Funds' assets, the Valuation Model materially overstated the Private Funds' net asset value ("NAV") and fund performance, and increased SBB's fees.

10. To satisfy the Custody Rule,<sup>6</sup> SBB retained RSM to audit the Private Funds' financial statements for years ended December 31, 2013, 2014, 2015, 2016, 2017, and 2018. RSM completed audits for each year from 2013 through 2017. In each of these audited financial statements distributed to investors, SBB represented that its financial statements were presented in accordance with GAAP. During each audit, SBB's management represented to RSM that they prepared the financial statements in accordance with GAAP and that their structured notes were stated at fair value (*e.g.* in accordance with ASC 820).

11. RSM stated in each of the Private Fund audit reports for years ended December 31, 2013 through 2017 that its audits were conducted in accordance with generally accepted auditing standards ("GAAS") and opined that each of the Private Funds' financial statements "present fairly, in all material respects, the financial position of [the Private Funds] ... in accordance with accounting principles generally accepted in the United States of America."

## **B. RSM's Staffing of the Private Fund Audits**

12. During the relevant time period through September 2016, RSM used the RSM Risk Assessment Model ("MRAM"), an RSM-developed system to evaluate risk for new and continuing engagements. The MRAM considered several risk-rating factors, such as industry, financial condition, governance, management, control environments, size, complexity, and international reach. The MRAM also identified potential risks of material misstatement, the need for the involvement of subject matter experts, and other engagement risks. All new and continuing engagements received a MRAM "score" ranging from 1 to 7, with scores between 5 and 7 indicating high risk audit. The score indicated the required level at which RSM must obtain approval to accept the engagement and the required staffing for the engagement. For example, all engagements with scores of 5+ required a consultation with and approval by RSM's National Professional Standards Group ("NPSG") Industry Leader and Financial Services Client Acceptance, and Re-Evaluation Committee ("FSCAR"). The Private Funds engagements typically received risk scores of 4 or 5.

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<sup>6</sup> The Custody Rule requires, among other things, that registered investment advisers with custody of client assets maintain those funds and securities with a qualified custodian, who must provide account statements to investors at least quarterly, and requires client assets to be verified through an annual surprise examination by an independent public accountant. An adviser does not have to comply with certain Custody Rule requirements if, in connection with a limited partnership, it completes and distributes annual audited financial statements prepared in accordance with GAAP to each limited partner within 120 days of the end of the partnership's fiscal year (the "Audit Exception"). *See* Rule 206(4)-2(b)(4) under the Advisers Act.

13. During the relevant period, RSM's National Office of Risk Management ("NORM"), in consultation with RSM's Regional Professional Practice Office, maintained a list of individuals by industry and engagement risk rating who were authorized to serve as engagement partners, managers, and engagement quality reviewers for particular audits.

14. Engagement Partner, a partner in RSM's Financial Service Group, was assigned as the engagement partner for all of RSM's Private Fund audits. Although Engagement Partner was authorized to work on audit engagements of all risk levels, prior to the Private Fund audits, Engagement Partner had no experience auditing or valuing structured notes. In addition, the audit team had virtually no experience auditing or valuing structured notes, which constituted more than 90% of the Private Funds' total assets. RSM staffing policy at the time was not designed to adequately address deficiencies in the audit team's competence and capabilities regarding structured note valuation.

15. In planning each of the Private Fund audits, the audit team identified the valuation of structured notes as a "significant risk" of a material misstatement and as involving "significant accounting estimates with high estimation uncertainty." Under AICPA's standards for performing risk assessment procedures related to accounting estimates, auditors should, among other things, obtain an understanding of how management made its accounting estimates and the data on which they were based, including: (i) the methods and model used in making fair value estimates; (ii) relevant controls; (iii) the assumptions underlying the fair value estimates; and (iv) whether there had been any changes from the prior period in the methods or assumptions for making fair value estimates. AU-C § 540.08.<sup>7</sup> And because the audit team identified SBB's accounting estimates as a "significant risk," the audit team should have evaluated how SBB considered alternative assumptions or outcomes and why it had rejected them and whether SBB's assumptions were reasonable. AU-C § 540.15.

16. RSM's Audit Policies, modeled after AU-C § 540.13, provided for three methods of testing the fair value of an investment security when, like SBB's approach, the fair value is determined based on a model: (i) "Subsequent Events and Transaction" Approach (determining whether events occurring up to the date of the auditor's report provide audit evidence regarding the fair value estimate); (ii) "Test Management's Method" Approach (testing how management made the fair value estimate, the data on which it is based, and the model's assumptions and methodology); and (iii) "Independent Estimate" Approach (developing a point estimate or range to evaluate management's point estimate).

### **C. 2013 Private Fund Audits**

17. For the 2013 Private Fund audits, RSM used the Independent Estimate approach to test the reasonableness of SBB's fair value estimates. The third-party valuation provider's software that RSM utilized to perform this approach, however, was only approved by RSM for assets valued using "Level 1" and "Level 2" inputs, not for assets that were valued using "Level 3"

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<sup>7</sup> AU-C § 540, titled "Auditing Accounting Estimates, Including Fair Value Accounting Estimates, and Related Disclosures," addresses the auditor's responsibilities relating to fair value accounting estimates.

inputs, such as the structured notes owned by the Private Funds.<sup>8</sup> SBB had mischaracterized the Private Funds' structured notes as "Level 2" in its financial statements, and the audit team, including the assigned valuation specialists, did not uncover this mischaracterization, in part due to the team's inexperience with the assets and lack of understanding of SBB's valuation techniques.

18. The audit team priced each SBB structured note using a third-party valuation service provider's valuation software, and compared, on a note-by-note basis and a fund basis, the third party's fair value estimate against SBB's fair value estimate. The audit team concluded that SBB's estimates appeared reasonable because the variance between the third-party estimate and SBB's estimate fell below RSM's internal allowable variance threshold.

19. The audit team, however, failed to obtain an understanding of the inputs, methods, and assumptions underlying the Valuation Model, as required by AU-C § 540.08. No one assigned to the audit had the appropriate competence and capabilities to evaluate the Valuation Model. As discussed above, SBB's valuation policy clearly reflected that SBB was eschewing industry standards and that its inputs and methodologies were inconsistent with the valuation practices of market participants. Moreover, the results of RSM's Independent Estimate testing showed that SBB's Valuation Model consistently valued the structured notes higher than the third-party valuation service provider, revealing potential inappropriate bias in the model.

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<sup>8</sup> Whereas Level 2 inputs are observable, Level 3 inputs are unobservable. Unobservable inputs are inputs that reflect the reporting entity's own assumptions about the assumptions market participants would use in pricing the asset or liability developed based on the best information available in the circumstances. See ASC 820.

#### D. 2014 Private Fund Audits

20. Like the 2013 audits, RSM began the 2014 audits using the Independent Estimate approach and priced the SBB's structured notes through the same third-party valuation service provider that had been used in connection with the 2013 audits. This time, the variance between the third-party's estimate and SBB's estimate exceeded, on a fund level, RSM's allowable variance threshold for three of the Private Funds. The SBB's estimates were uniformly higher than the third-party's estimates.

<b>Fund</b>	<b>SBB Value</b>	<b>Third-Party Value</b>	<b>Variance \$</b>	<b>Variance %</b>	<b>RSM Allowable Variance Threshold</b>
Fund I	\$48,661,637	\$46,060,824	\$2,600,814	5.34%	\$858,299
Fund II	\$21,346,747	\$20,058,901	\$1,287,846	6.00%	\$311,298
Fund III	\$15,069,189	\$14,353,902	\$715,286	4.75%	\$353,023

21. Under RSM's Audit Policies, unresolved valuation variances exceeding firm thresholds may indicate that the financial statements are materially misstated and must be documented in the work papers. The audit team was unable to resolve the differences in valuation. The audit team consulted with RSM's NPSG, which is responsible for RSM's audit training, for preparing audit manuals and audit programs, and for providing audit guidance to engagement teams. After the consultation, the audit team switched to a Test Management's Method approach.

22. Under RSM's Test Management's Methods approach, consistent with AU-C § 540.13, the auditor should evaluate whether the valuation model is appropriate, management's inputs are sufficiently reliable, and assumptions are reasonable. To be reasonable, management's assumptions should reflect and be consistent with "what knowledgeable, willing arm's length parties (sometimes referred to as *market participants* or equivalent) would use in determining fair value when exchanging an asset." AU-C § 540.A33 (emphasis in original). The Test Management's Methods approach would also require consideration as to whether specialized skills or knowledge is required in order to obtain sufficient appropriate audit evidence. See AU-C § 620.07 ("If expertise in a field other than accounting or auditing is necessary to obtain sufficient appropriate audit evidence, the auditor should determine whether to use the work of an auditor's specialist.")

23. Here, Engagement Partner concluded that Engagement Partner lacked the competence and capabilities to adequately assess the reasonableness of SBB's Valuation Model inputs and assumptions and that a valuation specialist was necessary to obtain sufficient appropriate audit evidence to evaluate whether SBB's inputs and assumptions were reasonable and appropriately supported.

24. At the time, RSM lacked sufficient quality controls, policies, and procedures for staffing internal valuation specialists on audits and lacked sufficient firm oversight to provide reasonable assurance that the assigned valuation specialists possessed the necessary competence and experience to render reasonableness opinions on particular products or classes of securities at

issue in the audit. Instead, it was incumbent upon each individual valuation specialist to determine whether he/she had the requisite competence and experience to work on a particular engagement. And it was incumbent upon the audit team to find a specialist with the competencies and capabilities that were necessary and appropriate in the individual engagement circumstances.

25. With the audit deadline 13 days away, a member of the audit team sent an email to Valuation Specialist 1, who at the time was a valuation manager, asking if he had any experience with structured notes, and explaining that SBB estimates fair value using pricing models that take into account various terms that were laid out in the email. Valuation Specialist 1 said that he did. In documenting its satisfaction with Valuation Specialist 1's qualifications, reputation, and objectivity, the audit team stated: "He has several years of industry experience prior to joining [RSM]. He has been with the firm for 10.5 years and is a manager."

26. In reality, Valuation Specialist 1 had no experience with structured notes: he had never valued a structured note or assessed the reasonableness of a structured note pricing model. Valuation Specialist 1's experience with options valuation was limited to assessing the reasonableness of employee stock ownership plans valuations. Valuation Specialist 1 lacked the competence and capabilities to evaluate the reasonableness of SBB's assumptions and therefore could not properly assess whether the assumptions were reasonable in light of the measurement objectives, such as (1) whether SBB's assumptions were consistent with observable market assumptions, (2) whether SBB incorporated market-specific inputs into the development of its assumptions, (3) how SBB selected certain assumptions which deviated from the assumptions of market participants, and (4) the characteristics of market participants relevant to the accounting estimate. AU-C § 540.A83-84.

27. Compounding Valuation Specialist 1's lack of experience and competence on the 2014 Private Fund audits was the fact that Valuation Specialist 2, who was assigned to review Valuation Specialist 1's work, also had no experience valuing structured notes and had never worked on an audit involving structured notes.

28. Valuation Specialist 1 was unfamiliar with, and in some cases misunderstood, several of SBB's valuation techniques and assumptions, which jeopardized his and the audit team's ability to assess the reasonableness of SBB's valuation assumptions, possible inappropriate management bias, the reliability of SBB's inputs, and the appropriateness of SBB's valuation methodology.

29. Instead of evaluating significant inputs and assumptions, Valuation Specialist 1 and the audit team focused exclusively on SBB's volatility input, based on Valuation Specialist 1's assumption that the volatility input that would be the primary driver of the overall valuation. Valuation Specialist 1 did not perform any analysis of other non-standard inputs in SBB's model that increased and smoothed returns.

30. Because Valuation Specialist 1 had never seen anything like SBB's volatility calculation—nor had four other RSM valuation specialists consulted on the Private Fund audits—Valuation Specialist 1 asked SBB for additional support for management's atypical method of



calculating volatility, including academic or theoretical support for the method, but management did not have any support for its method of determining volatility.

31. Valuation Specialist 1 and the audit team, after consultation with the NPSG and managers in RSM valuation group, conducted two tests to assess the reasonableness of SBB's volatility input. Under applicable AICPA standards, auditors should obtain sufficient appropriate audit evidence to reduce audit risk to an acceptably low level and to enable the auditor to draw reasonable conclusions on which to base the auditor's opinion. AU-C § 200.19, § 500.06. The tests failed to provide the audit team with sufficient appropriate audit evidence of the reasonableness of SBB's valuations. Nevertheless, Valuation Specialist 1 concluded based solely on the two flawed volatility tests that SBB's "methodologies are appropriate and the assumptions appear to be reasonable" and that SBB's note valuations "are reasonable." Valuation Specialist 1's work was reviewed and approved by Valuation Specialist 2.

32. The audit team relied on Valuation Specialist 1's assessment of the reasonableness of the assumptions and the appropriateness of the methods used by SBB and their application in concluding that SBB's note valuations were reasonable.

#### **E. 2015 Private Fund Audits**

33. The audit team and Valuation Specialist 1 performed similar audit procedures to assess the reasonableness of SBB's fair value estimates for the 2015 Private Fund audits.

34. The audit team, in consultation with Valuation Specialist 1, again designed no audit procedures to assess the reasonableness of certain significant assumptions, the reliability of certain of SBB's inputs, or the appropriateness of certain of SBB's methods. Like the 2014 audits, they focused on testing one input, volatility, to assess the reasonableness of SBB's fair value estimates. The volatility testing suffered from the same deficiencies as in 2014.

35. Based on the volatility testing alone, Valuation Specialist 1 concluded that SBB's valuation methodologies and key assumptions appeared reasonable. Valuation Specialist 1's work was reviewed and approved by Valuation Specialist 2.

36. Once again, Valuation Specialist 1 and the audit team failed to sufficiently understand or evaluate the reasonableness of SBB's valuation assumptions, the reliability of SBB's inputs, and the appropriateness of SBB's methods. Nevertheless, Valuation Specialist 1 concluded that SBB's "methodologies are appropriate and the assumptions appear to be reasonable" and that SBB's note valuations "are reasonable."

37. The audit team relied on Valuation Specialist 1's assessment of the reasonableness of the assumptions and the appropriateness of the methods used by SBB and their application and relied on Valuation Specialist 1's conclusion that SBB's note valuations were reasonable.

## **F. 2016 and 2017 Private Fund Audits**

38. RSM, citing the SEC's pending enforcement investigation, delayed completing the 2016 and 2017 Private Fund audits until May 2018. During that time gap, RSM also became aware of an SEC exam deficiency letter issued to SBB citing numerous flaws in SBB's Valuation Model, fair valuation estimates, and net asset values and fees calculated based on those estimates.

39. Beginning in December 2016, SBB abandoned its Valuation Model and retained a third-party valuation service provider ("Provider") to value its structured notes. Provider generated retrospective note valuations, on a monthly basis, for all structured notes held by the Private Funds from January 2013 through November 2016. Provider's valuations were uniformly lower than SBB's valuations.

40. Upon receiving Provider's valuations, RSM evaluated the materiality of SBB's revised valuations to determine whether the Private Funds' prior financial statements were materially misstated. For nearly all of the Private Funds, the difference between Provider's values and SBB's values exceeded RSM's quantitative materiality thresholds.

41. Despite the fact that SBB's revised note valuations resulted in reduced NAVs that exceeded RSM's quantitative materiality thresholds for nearly all the Private Funds in 2014 and 2015, RSM concluded that restatement of prior periods was unnecessary.

## **G. RSM Resigns and Recalls its Prior Private Fund Audit Reports**

42. On April 12, 2019, weeks before the close of the 2018 Private Fund audits, RSM resigned as the Private Funds' auditor and recalled its 2013 through 2017 Private Fund audit reports. RSM, citing multiple inconsistencies between (i) what SBB's management communicated to RSM during prior audits, and (ii) documents and testimony management provided to the SEC in connection with an enforcement investigation, concluded that it could "no longer rely on management representations" and resigned as the Private Funds' auditor. Specifically,

- SBB witnesses testified that they believed they had communicated to RSM the criticisms the SEC's exam staff raised with SBB's proprietary model in a timely manner. RSM claimed this was not accurate. SBB did not disclose the exam staff's (1) October 2014 concerns or (2) March 2016 deficiency letter until December 2016.
- SBB was providing different sets of performance figures to existing and potential investors during the same time period in which SBB represented to RSM that SBB "had not implemented another [valuation] model."
- SBB's model was not designed to be GAAP compliant or reflect an exit price for the structured notes.

- SBB never disclosed to RSM that at least two different consulting firms expressed significant concerns about the reasonableness of SBB’s proprietary model. The two consulting firms shared several of the concerns expressed by the SEC exam team to SBB in October 2014. This is further evidence that SBB knew its model was not GAAP-compliant, contrary to SBB’s representations to RSM.

43. Because RSM could no longer rely on management representations, it recalled all of the audit reports it prepared for SBB and the Private Funds.

### **RSM’s VIOLATIONS OF PROFESSIONAL STANDARDS**

44. The American Institute of Certified Public Accountants (“AICPA”) established Quality Control standards for public accounting firms’ accounting and auditing practice. QC § 10. A system of quality control consists of policies designed to achieve the following objectives and the procedures necessary to implement and monitor compliance with those policies. QC § 10.04. The objective of a public accounting firm is to establish and maintain a system of quality control to provide it with reasonable assurance that (1) the firm and its personnel comply with professional standards and applicable legal and regulatory requirements and (2) reports issued by the firm are appropriate in the circumstances. QC § 10.12. In relevant part, a firm should establish policies and procedures requiring that the engagement partner has the appropriate competence and capabilities to perform the role. QC § 10.33. In addition, a firm should establish policies and procedures for the acceptance and continuance of client relationships and specific engagements, designed to provide the firm with reasonable assurance that the firm will undertake engagements only where, among other things, it is competent to perform the engagement and has the capabilities, including time and resources, to do so. QC § 10.27. A firm should also establish policies and procedures to assign appropriate personnel with the necessary competence and capabilities to perform engagements in accordance with professional standards and applicable legal and regulatory requirements and to enable the firm to issue reports that are appropriate in the circumstances. QC § 10.34. This includes consideration of the team’s technical knowledge and experience. QC § 10.A31. As a result of the conduct described above, RSM failed to meet the standards that required competence and proficiency in client acceptance and continuance, staffing, and supervision on the Private Fund audits.

### **VIOLATIONS**

45. Rule 102(e)(1)(ii) of the Commission’s Rules of Practice provides that the Commission may censure a person or deny a person the privilege of appearing or practicing before the Commission, if it finds that such person has engaged in improper professional conduct. Improper professional conduct includes either of the following two types of negligent conduct: (i) a single instance of highly unreasonable conduct that results in a violation of applicable professional standards in circumstances in which an accountant knows, or should know, that heightened scrutiny is warranted; or (ii) repeated instances of unreasonable conduct, each resulting in violations of applicable professional standards, that indicate a lack of competence to practice before the Commission. Rule 102(e)(1)(iv)(B)(1) and (2). RSM engaged in improper professional conduct as defined in Rule 102(e)(1)(iv).

## **FINDINGS**

46. Based on the foregoing, the Commission finds that RSM engaged in improper professional conduct within the meaning of Exchange Act Section 4(C)(a)(2) and Rule 102(e)(1)(ii) of the Commission's Rules of Practice.

## **RSM's REMEDIAL EFFORTS**

47. In determining to accept the Offer, the Commission considered remedial efforts undertaken by RSM to review and evaluate the sufficiency and adequacy of RSM's quality controls and policies and procedures regarding: (1) client acceptance / risk evaluation; (2) rating and assignment of specialists; (3) auditor oversight of specialists, including planning, communication, and documentation; (4) valuation training; and (5) exercise of professional due care relating to audits of fair value measurements and disclosure of financial and non-financial assets. In particular, RSM (i) performed an internal review and evaluation of the sufficiency and adequacy of certain quality controls, policies, and procedures for audits of private funds within its financial services practice, (ii) made certain enhancements to its quality controls, policies, and procedures, including enhancements that have been implemented since April 2016, and (iii) proposed additional initiatives (collectively, the "RSM Enhancements"). The undertakings set forth below are designed to test the effectiveness, post-implementation, of the RSM Enhancements and to ensure that RSM's quality controls, including the RSM Enhancements, are designed to provide reasonable assurance of compliance with Commission regulations and PCAOB standards and rules.

## **UNDERTAKINGS**

48. Respondent RSM undertakes to complete the following actions:

1. Notification. RSM shall provide all audit personnel a copy of this Order within ten (10) business days after entry of the Order.
2. RSM Policies Report and Validation Plan.

Within one hundred eighty (180) days after the entry of this Order, RSM shall submit to the Commission staff a report (the "RSM Policies Report") describing in reasonable detail its quality controls set forth in its audit manual and audit- and quality-related guidance and policies, relating to its policies and procedures set forth therein for RSM's quality controls and its audit and interim review procedures regarding the subject areas specified below (hereinafter referred to as "Specified RSM Policies"). The RSM Policies Report shall also describe in reasonable detail RSM's methodology and work plan, including the internal quality inspection processes administered by RSM, to review, test, and assess whether the Specified RSM Policies are designed to provide reasonable assurance of compliance with Commission regulations and PCAOB standards and rules (the "Validation Plan"). The Commission staff may make reasonable requests for further evidence of the quality controls and validation plan set forth

in the RSM Policies Report and Validation Plan, and RSM agrees to provide such evidence. The Validation Plan, not unacceptable to the Commission staff, shall describe RSM's review, testing, and assessment of the following Specified RSM Policies:

- a. Staffing evaluation and decision-making as part of the client acceptance and continuance process for audits of SEC registrants and private funds within RSM's Financial Services Practice, including policies and procedures designed to provide reasonable assurance that (i) the engagement partner has the competence and capabilities to perform the role based on the nature of the client engagement (e.g., industry, balance sheet items/asset classes, significant risks), and (ii) such engagements are staffed with appropriate personnel with the necessary competence and capabilities to perform the engagements;
- b. Identification of the need for assignment and the actual assignment of valuation specialists to engagements for audits of SEC registrants and private funds within RSM's Financial Services Practice, including policies and procedures designed to provide reasonable assurance that assigned valuation specialists have the necessary competence, capabilities, technical knowledge, and experience to perform such engagements; and
- c. Professional education in engagement staffing and in working with, and reviewing and evaluating the work of, such valuation specialists.

3. Validation Report and Certification.

- a. Validation Report. Within two hundred seventy (270) days after the issuance of the RSM Policies Report and Validation Plan, RSM shall submit to the Commission staff a written report setting forth a description of the testing, analysis, and results of its Validation Plan ("Validation Report"). In particular, the Validation Report shall describe (i) the results of the processes identified in Paragraph 48.2 as they relate to the Specified RSM Policies identified in the RSM Policies Report, (ii) any deficiencies involving the Specified RSM Policies identified as a result of such processes, and (iii) any remedial actions taken in response thereto.
- b. Validation Certification. The Validation Report shall include a certification executed by RSM's (i) Chief Risk Officer and (ii) National Audit Leader that the Specified RSM Policies are designed to provide reasonable assurance of compliance with Commission regulations and PCAOB standards and rules, and if significant deficiencies in the design or operation of the Specified RSM Policies are identified, shall report such significant deficiencies to the Commission staff ("Validation Certification"). The Commission staff may make reasonable requests for further evidence of compliance, including the testing results, and RSM agrees to provide such

evidence. If RSM identifies significant deficiencies that are not remediated as of the date of the Validation Report and Certification (“Unremediated Specified Policies”), RSM shall state that it cannot certify compliance as to those Unremediated Specified Policies but shall otherwise certify compliance as to all other Specified RSM Policies. If RSM can certify compliance as to all Specified RSM Policies, then no further validation or certification is necessary pursuant to these Undertakings provided that there are no objections from the Commission staff within ninety (90) days of receipt of the Validation Certification.

4. Remediation Plan. In the event that RSM cannot certify compliance pursuant to Paragraph 48.3.b above as to all Specified RSM Policies, then, within ninety (90) days after the issuance of the Validation Report and Certification, RSM shall submit to the Commission staff a plan not unacceptable to the Commission staff: (a) to review, test, and assess, where applicable, including through the internal quality inspection processes administered by RSM, whether the Unremediated Specified Policies are designed to provide reasonable assurance of compliance with Commission regulations and PCAOB standards and rules; and (b) a remediation plan that contains a schedule of remedial measures to correct the Unremediated Specified Policies (collectively, the “Remediation Plan”).
5. Remediation Report and Certification.
  - a. Remediation Report. Within two hundred seventy (270) days after the issuance of the Remediation Plan (if one is required under Paragraph 48.4), RSM shall submit to the Commission staff a written report setting forth a complete description of the testing, analysis, and results, where applicable, of its Remediation Plan (“Remediation Report”). In particular, the Remediation Report shall describe (i) the results of the processes identified in Paragraph 48.4 as they relate to the Unremediated Specified Policies identified in the RSM Policies Report, and (ii) any remedial actions taken in response thereto.
  - b. Remediation Certification. The Remediation Report shall include a certification executed by RSM’s (i) Chief Risk Officer and (ii) National Audit Leader that, as of the date of the Remediation Report, the Unremediated Specified Policies are designed to provide reasonable assurance of compliance with Commission regulations and PCAOB standards and rules, and if significant deficiencies in the design or operation of the Unremediated Specified Policies are identified, shall report such significant deficiencies to the Commission staff (“Remediation Certification”). The Commission staff may make reasonable requests for further evidence of compliance, including the testing results, where applicable, and RSM agrees to provide such evidence. If RSM identifies significant deficiencies that are not remediated as of the date of the

Remediation Report and Certification, RSM shall state that it cannot certify compliance. If RSM can certify compliance, then no further validation or certification is necessary pursuant to these Undertakings, provided that there are no objections from the Commission staff within ninety (90) days of receipt of the Remediation Certification.

6. Subsequent Remediation Plans, Reports, and Certifications. In the event that RSM cannot certify compliance pursuant to Paragraph 48.5.b above, RSM shall repeat the undertakings described in Paragraphs 48.4 and 48.5 annually until such time that no Unremediated Specified Policies are identified.
7. Internal Team Leader. RSM shall appoint an Internal Team Leader (“ITL”) knowledgeable and experienced in U.S. GAAP, Commission regulations, and PCAOB standards and rules not unacceptable to Commission staff to oversee these undertakings. The ITL, or his/her successor as approved the SEC staff, shall continue in this role until all undertakings have been deemed satisfied by the Commission staff. The ITL shall have overall responsibility for the planning and scope of all Validation Plans. The ITL also shall have overall responsibility for developing the methodology for the selection of RSM controls subject to review not unacceptable to Commission staff. The ITL shall also oversee testing. The ITL shall engage RSM professionals with appropriate experience, and outside consultants or third-party support, if needed, to develop the Validation Plans and to perform all reviews, testing, and preparation of all reports described in these undertakings. The ITL shall oversee the preparation of all reports submitted to the Commission staff. RSM shall provide the ITL with staffing and other resources as necessary to accomplish these undertakings in a timely manner. RSM shall not obstruct the ITL in the execution of his or her duties during the course of these undertakings.
8. Submissions to the Commission Staff. The Commission staff may request access to documents, internal review and PCAOB inspection materials, training materials, RSM personnel, and/or meetings with RSM, within thirty (30) days of receipt of any Report, Plan, or Certification. Within fifteen (15) days of receipt of the above requested information or meetings, the Commission staff may submit to RSM any questions regarding the Reports, Plans, or Certifications, and RSM agrees to address all such questions. Unless otherwise directed by the Commission staff, all Reports, Plans, Certifications, and other documents required to be provided to the Commission staff shall be sent to Jeffrey A. Shank, Assistant Regional Director, Securities and Exchange Commission, 175 W. Jackson Blvd., Suite 1450, Chicago, IL 60604, or such other address as the Commission may provide, with a copy to the Office of Chief Counsel of the Enforcement Division (the “Designees”). RSM will make all Reports, Plans, and Certifications available to PCAOB staff upon request. All such Reports, Plans, Certifications, and other documents provided to the Commission staff pursuant to these undertakings likely will include proprietary, financial, confidential, and competitive business information. Public disclosure

of the reports could discourage cooperation, impede pending or potential government investigations or undermine the objectives of the reporting requirement. For these reasons, among others, the Reports, Plans, Certifications, and other documents, and the contents thereof, are intended to remain and shall remain non-public, except (a) pursuant to court order, (b) as agreed by the parties in writing, (c) to the extent that the Commission staff determines in its sole discretion that disclosure is required in furtherance of the Commission's discharge of its duties and responsibilities, or (d) is otherwise required by law.

9. Satisfaction of Undertakings. Unless otherwise notified by the Division of Enforcement, these undertakings are deemed satisfied ninety (90) days after RSM's submission of a certification of compliance pursuant to Paragraphs 48.3.b, 48.5.b, or 48.6.
10. Recordkeeping. RSM shall preserve and retain all documentation regarding all certifications and reports for seven (7) years and will make it available to the staffs of the Commission or the PCAOB upon request.
11. Deadlines. For good cause shown, the Commission staff may in its sole discretion extend any of the procedural dates relating to the undertakings. Deadlines for procedural dates shall be counted in calendar days, unless otherwise specified. If the last calendar day falls on a weekend or a federal holiday, the next business day shall be considered to be the last day.
12. Petition to Reopen Matter. In determining whether to accept RSM's Offer, the Commission has considered these undertakings. RSM agrees that if the Division of Enforcement believes that RSM has not satisfied these undertakings, it may petition the Commission to reopen the matter to determine whether additional sanctions are appropriate.

49. Cooperation with the Commission's Investigation and Related Litigations. RSM (including its partners, principals, officers, agents, and employees) shall cooperate fully with the Commission in any and all investigations, litigations, administrative and other proceedings commenced by the Commission or to which the Commission is a party relating to or arising from the matters described in this Order. In connection with such investigation, litigation, administrative or other proceedings, RSM: (i) agrees to appear and be interviewed by Commission staff at such times and places as the staff requests upon reasonable notice; (ii) will accept service by mail, facsimile transmission, or email of notices or subpoenas issued by the Commission for documents or testimony at depositions, hearing, or trials, or in connection with any related investigation by Commission staff; (iii) appoints counsel Christopher Kearney of Kecker Van Nest & Peters, as agent to receive service of such notices and subpoenas; (iv) with respect to such notices and subpoenas, waives the territorial limits on service contained in Rule 45 of the Federal Rules of Civil Procedures and any applicable local rules, provided that the party requesting the testimony reimburses RSM's travel, lodging, and subsistence expenses at the then-prevailing U.S. Government per diem rates; and (v) consents to personal jurisdiction over RSM in any United



States District Court for purposes of enforcing any such subpoena. The foregoing obligations are subject to RSM's reservation of rights (i) to claim that documents or information requested are subject to appropriate and applicable evidentiary objections and privileges, including the attorney-client privilege, attorney work product protection, or other applicable privileges or protections, and (ii) to seek entry of a confidentiality order as to sensitive business documents or information, sensitive personnel documents or information, or other confidential information (including information pertaining to clients other than the client identified in this Order).

50. In determining whether to accept RSM's Offer, the Commission has considered the undertakings in Paragraphs 48 and 49.

#### **IV.**

In view of the foregoing, the Commission deems it appropriate to impose the sanctions agreed to in Respondent RSM's Offer.

Accordingly, it is hereby ORDERED, effective immediately, that:

- A. RSM is censured; and
- B. RSM shall comply with the undertakings enumerated in paragraph 48 above.

By the Commission.

Vanessa A. Countryman  
Secretary