

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 96898 / February 13, 2023

ADMINISTRATIVE PROCEEDING
File No. 3-20781

In the Matter of :
 :
Baxter International Inc., :
 :
Respondent. :

**NOTICE OF PROPOSED PLAN OF
DISTRIBUTION AND
OPPORTUNITY FOR COMMENT**

ADMINISTRATIVE PROCEEDING
File No. 3-20782

In the Matter of :
 :
Jeffrey Schaible, :
 :
Respondent. :

ADMINISTRATIVE PROCEEDING
File No. 3-20783

In the Matter of :
 :
Scott Bohaboy, :
 :
Respondent. :

Notice is hereby given, pursuant to Rule 1103 of the United States Securities and Exchange Commission's ("Commission") Rules on Fair Fund and Disgorgement Plans ("Commission's Rules"), 17 C.F.R. § 201.1103, that the Division of Enforcement has submitted to the Commission a proposed plan of distribution (the "Proposed Plan") for the distribution of monies paid in the above-captioned matters.

On February 22, 2022, the Commission issued an Order Instituting Cease-and-Desist Proceedings, Pursuant to Section 8A of the Securities Act of 1933 and Section 21C of the Securities Exchange Act of 1934, Making Findings, and Imposing a Cease-and-Desist Order (the “Order”)¹ against Baxter International Inc. (“Baxter”). In the Order, the Commission found that beginning in at least 2009 and continuing through July 2019, Baxter improperly leveraged its foreign exchange rate convention by engaging in intra-company transactions for the purpose of generating foreign exchange accounting gains or avoiding foreign exchange accounting losses (the “FX Transactions”). These FX Transactions had the effect of materially misstating Baxter’s net income as reported in public filings. On October 24, 2019, Baxter issued a press release announcing that it had begun conducting an internal investigation of previously reported non-operating income related to foreign exchange gains and losses (the FX Transactions). According to the Order, in March 2020, Baxter restated its financial statements, which reduced its previously reported net income for 2017 through June 30, 2019, and retained earnings as of January 1, 2017, by \$582 million, collectively. The Commission ordered Baxter to pay a civil money penalty of \$18 million to the Commission and created a Fair Fund pursuant to Section 308(a) of the Sarbanes-Oxley Act of 2002 (the “Baxter Fair Fund”).

Also on February 22, 2022, in two related matters, the Commission issued Corrected Orders Instituting Cease-and-Desist Proceedings, Pursuant to Section 8A of the Securities Act of 1933 and Section 21C of the Securities Exchange Act of 1934, Making Findings, and Imposing a Cease-and-Desist Order against Jeffrey Schaible (the “Schaible Order”)² and Scott Bohaboy (the “Bohaboy Order”).³ During relevant times, Schaible was an employee in the Treasury department of Baxter, and Bohaboy was its Treasurer. In the Schaible and Bohaboy Orders, the Commission found that the respondents, among other things, caused Baxter’s violations of the federal securities laws. The Commission ordered Schaible to pay disgorgement, prejudgment interest, and a civil penalty totaling \$189,359.00 and Bohaboy to pay a civil money penalty of \$125,000. The Commission created a Fair Fund in each of the Schaible and Bohaboy Orders pursuant to Section 308(a) of the Sarbanes-Oxley Act of 2002 and further ordered those Fair Funds combined with the Baxter Fair Fund.

The Baxter Fair Fund includes the \$18,314,359.00 paid by Baxter, Schaible, and Bohaboy. The assets of the Baxter Fair Fund are subject to the continuing jurisdiction and control of the Commission. The Baxter Fair Fund has been deposited in a Commission-designated account at the U.S. Department of the Treasury, and any interest accrued will be added to, and become a part of, the Baxter Fair Fund.

OPPORTUNITY FOR COMMENT

Pursuant to this Notice, all interested persons are advised that they may obtain a copy of the Plan from the Commission’s public website at <http://www.sec.gov/litigation/fairfundlist.htm>. Interested persons may also obtain a written copy of the Proposed Plan by submitting a written request to Catherine E. Pappas, United States Securities and Exchange Commission, One Penn

¹ Securities Act Rel. No. 11032 (Feb. 22, 2022).

² Securities Act Rel. No. 11033 (Feb. 22, 2022).

³ Securities Act Rel. No. 11034 (Feb. 22, 2022).

Center, 1617 JFK Blvd., Ste. 520, Philadelphia, PA 19103. All persons who desire to comment on the Proposed Plan may submit their comments, in writing, no later than thirty (30) days from the date of this Notice:

1. to the Office of the Secretary, United States Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090;
2. by using the Commission's Internet comment form (<http://www.sec.gov/litigation/admin.shtml>); or
3. by sending an e-mail to rule-comments@sec.gov.

Comments submitted by email or via the Commission's website should include "Administrative Proceeding File Nos. 3-20781, 3-20782, and 3-20783" in the subject line. Comments received will be publicly available. Persons should submit only information they wish to make publicly available.

THE PROPOSED PLAN

The Net Available Fair Fund⁴ is comprised of the \$18,314,359.00 in disgorgement, prejudgment interest, and civil money penalties paid by Baxter, Schaible, and Bohaboy, less taxes, fees, and expenses. The Proposed Plan provides for the distribution of the Net Available Fair Fund to investors who purchased and/or acquired Baxter International common stock during the period May 6, 2015 through October 23, 2019, inclusive and who suffered a Recognized Loss as calculated in the Plan of Allocation in the Proposed Plan.

For the Commission, by the Division of Enforcement, pursuant to delegated authority.⁵

Vanessa A. Countryman
Secretary

⁴ All capitalized terms used herein but not defined are used as defined in the Proposed Plan.

⁵ 17 C.F.R. § 200.30-4(a)(21)(iii).