

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 96978 / February 24, 2023

ADMINISTRATIVE PROCEEDING
File No. 3-20310

In the Matter of	:	
	:	ORDER APPROVING
	:	APPLICATION OF FUND
S&P Dow Jones Indices LLC,	:	ADMINISTRATOR FOR PAYMENT
	:	OF FEES AND EXPENSES AND
Respondent.	:	APPROVAL OF FUTURE FEES
	:	AND EXPENSES

On May 17, 2021, the Commission issued an Order Instituting Cease-and-Desist Proceedings, Pursuant to Section 8A of the Securities Act of 1933, Making Findings, and Imposing a Cease-and-Desist Order (the “Order”)¹ against S&P Dow Jones Indices LLC (the “Respondent”). In the Order, the Commission found that prior to February 5, 2018, Respondent, which publishes an index that measures the return from a rolling long position for certain VIX futures contracts, failed to disclose the existence of a feature in this index that kept securities prices static during a period of unprecedented volatility. As a result of this undisclosed feature, values being published and disseminated to the market were not based on the real-time prices of certain VIX futures contracts. The Commission ordered the Respondent to pay a \$9,000,000.00 civil money penalty to the Commission. The Commission also created a Fair Fund, pursuant to Section 308(a) of the Sarbanes-Oxley Act of 2002, so the penalty paid can be distributed to harmed investors (the “Fair Fund”).

On November 2, 2021, the Division of Enforcement, pursuant to delegated authority, issued an order appointing Epiq Class Actions and Claims Solutions, Inc. as the fund administrator of the Fair Fund and waived the bond requirement.²

In accordance with Rule 1105(d) of the Commission’s Rules,³ the Fund Administrator has submitted to the Commission staff 4 invoices for services rendered from November 2, 2021 (date of appointment) through October 31, 2022, totaling \$66,426.96. The Commission staff has reviewed the Fund Administrator’s invoices, confirmed that the services have been provided, and finds the fees and expenses of \$66,426.96 to be reasonable. The Commission staff has requested

¹ Securities Act Rel. No. 10943 (May 17, 2021).

² Order Appointing Fund Administrator and Waived the Bond Requirement, Exchange Act Rel. No. 93509 (Nov. 2, 2021).

³ 17 C.F.R. § 201.1105(d).

that the Commission authorize the Office of Financial Management (“OFM”) to pay the Fund Administrator’s fees and expenses of \$66,426.96 from the Fair Fund in accordance with Rule 1105(e) of the Commission’s Rules.⁴

Additionally, to expedite and streamline the process for future payments, the Commission staff has requested that the Commission authorize OFM, at the direction of an Assistant Director of the Office of Distributions, to pay the Fund Administrator’s future fees and expenses from the Fair Fund so long as the total amount paid to the Fund Administrator, including the invoice to be paid, does not exceed the total amount of the approved cost proposal submitted by the Fund Administrator.

Accordingly, it is hereby ORDERED, pursuant to Rule 1105(d) of the Commission’s Rules,⁵ that OFM pay the Fund Administrator’s fees and expenses of \$66,426.96 from the Fair Fund in accordance with Rule 1105(e) of the Commission’s Rules.⁶ Further, OFM is authorized to pay, at the direction of an Assistant Director of the Office of Distributions, any future fees and expenses of the Fund Administrator from the Fair Fund in accordance with Rule 1105(e) of the Commission’s Rules,⁷ so long as the total amount paid to the Fund Administrator, including the invoice to be paid, does not exceed the total amount of the approved cost proposal submitted by the Fund Administrator.

For the Commission, by the Division of Enforcement, pursuant to delegated authority.⁸

Vanessa A. Countryman
Secretary

⁴ 17 C.F.R. § 201.1105(e).

⁵ 17 C.F.R. § 201.1105(d).

⁶ 17 C.F.R. § 201.1105(e).

⁷ 17 C.F.R. § 201.1105(e).

⁸ 17 C.F.R. § 200.30-4(a)(21)(vi).