

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

**INVESTMENT ADVISERS ACT OF 1940**  
**Release No. 6432 / September 25, 2023**

**ADMINISTRATIVE PROCEEDING**  
**File No. 3-21709**

**In the Matter of**

**DWS Investment Management  
Americas, Inc.**

**Respondent.**

**ORDER INSTITUTING ADMINISTRATIVE  
AND CEASE-AND-DESIST PROCEEDINGS,  
PURSUANT TO 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 Sections 203(e) and 203(k) of the Investment Advisers Act of 1940 (“Advisers Act”) against DWS Investment Management Americas, Inc. (“Respondent” or “DIMA”).

**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 Administrative and Cease-and-Desist Proceedings, Pursuant to 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 Respondent's Offer, the Commission finds<sup>1</sup> that

#### Summary

1. This matter arises from DWS Investment Management Americas, Inc.'s ("DIMA") material misstatements, and its failure to adopt and implement policies and procedures reasonably designed to prevent the resulting violations of the Advisers Act and the rules thereunder concerning DIMA's integration of Environmental, Social, and Governance ("ESG") factors in research and investment recommendations for certain actively managed ESG integrated mutual funds and separately managed account strategies advised by DIMA (collectively the "ESG Integrated Products").

2. DIMA marketed itself to clients and prospective clients, and to investors and prospective investors in the funds it managed, as a leader in ESG, including through its marketing of the ESG Integrated Products. For example, in 2019, a DIMA senior leader described in a public marketing piece that ESG is "top of mind throughout our organization" through use of a proprietary "DWS ESG Engine" that is "the centerpiece of our commitment to integrating ESG considerations into our investment process [and] [e]very DWS investment team uses it to make investment decisions for their portfolio."

3. However, from August 2018, DIMA failed to adequately implement certain provisions of the DWS Group GmbH & Co. KGaA ("DWS") global ESG integration policy (the "ESG Integration Policy" or the "Policy") in advising DIMA's ESG Integrated Products as it had led clients and investors to believe it would, or otherwise adopt and implement reasonably designed policies and procedures to ensure that its public statements about the ESG Integrated Products were accurate. Among other things, in 2019, a version of the ESG Integration Policy was uploaded on DWS's U.S. public website through which DIMA marketed its advisory services. In marketing itself and its managed funds and strategies to clients and prospective clients, and to investors and prospective investors, DIMA represented that through this Policy its research analysts were required to include "financially material and reputation relevant ESG aspects into valuation model[s], investment recommendations and research reports and consider material ESG aspects as part of their [i]nvestment decision." Yet this representation was misleading because DIMA failed to adequately implement the Policy's requirements for research and monitoring compliance. Nor did DIMA adopt and implement reasonable policies and procedures to help ensure that its public representations about the ESG Integration Policy were not misleading. Indeed, internal analyses showed DIMA research analysts having inconsistent levels of documented compliance with the ESG Integration Policy's requirements to consider material ESG risk factors in research and valuation models. The ESG Integration Policy nonetheless remained published on the website, creating the impression that its employees were following the ESG Integration Policy, when DIMA knew or should have known that it lacked adequate procedures to ensure this was the case.

---

<sup>1</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.

## **Respondent**

4. **DWS Investment Management Americas, Inc.** (SEC File No. 801-252) is an investment adviser that has been registered with the Commission since 1940. DIMA is a Delaware corporation with its principal office in New York, New York. DIMA is a corporate subsidiary of DWS Group GmbH & Co. KGaA, an asset management holding company headquartered in Frankfurt, Germany.

## **Other Relevant Entity**

5. **DWS Group GmbH & Co. KGaA** was established in 2018 as a holding company of the former asset management division of Deutsche Bank AG. Prior to DWS's initial public offering on the Frankfurt Stock Exchange in 2018, it was wholly owned by Deutsche Bank AG. DWS and DIMA are now majority-owned indirect subsidiaries of Deutsche Bank AG.

## **DIMA's ESG Integrated Products**

6. Among the services DIMA provides, DIMA advises actively managed mutual funds. DIMA describes as "ESG dedicated" all actively managed funds that have "ESG" in the fund name; certain other DIMA-advised actively managed funds and certain retail Separately Managed Account ("SMA") strategies are considered "ESG integrated." Excluding ESG dedicated funds, the combined assets under management for DIMA's mutual funds and retail SMA strategies was approximately \$70 billion as of the end of 2021.

7. Pursuant to the ESG Integration Policy, described further below, the DIMA investment professionals advising ESG integrated funds were expected to consider material ESG aspects as part of their investment decision. DIMA investment professionals advising ESG dedicated funds, on the other hand, needed to comply with specific ESG rules that restricted the possible investment universe.

8. DIMA also offers certain SMA strategies, that are available to U.S. retail clients and are marketed with representations that investment professionals will consider "material ESG criteria that potentially impact the value of [the portfolio's] investments in order to achieve the best possible risk adjusted investment returns for our clients."

9. The conduct described in this Order concerns DIMA's representations and policies and procedures applicable to DIMA's ESG integrated funds and SMAs.

## **DIMA's ESG Policies, Tools, and Marketing**

10. DIMA marketed the ESG Integrated Products as "ESG integrated" because they were subject to the publicly disseminated ESG Integration Policy, which was published on the website for clients and prospective clients, and investors and potential investors to review. First created in August 2018, this Policy applied to DIMA and its investment professionals, such as DIMA research analysts and portfolio managers for the ESG Integrated Products. The Policy on the

website stated that DWS applied an ESG “screening and integration strategy to all of our actively managed holdings.” The stated goal of the ESG Integration Policy was to set out minimum standards for assessing investment risks and opportunities by incorporating “ESG factors into [our investment professionals’] investment process, analysis and decisions.” Among other requirements, the Policy required DIMA investment professionals to understand client ESG objectives, give assessments of ESG constraints to be included in client investment guidelines, consider and interpret ESG factors, incorporate material ESG risk factors into their fundamental analyses, and monitor the ESG quality of their portfolios.

11. In addition to the ESG Integration Policy, DIMA’s handbooks for analysts covering certain asset classes contained further ESG procedures. DIMA’s research analysts authored in-house research notes, which provided an investment analysis and recommendation for a specific issuer or sector. The handbooks required the analysts to document ESG considerations. For example, the March 2019 Equity Research Handbook required research notes to include documentation of an issuer’s “ESG & Controversies.” Similarly, the July 2020 Credit Research Handbook stated that “integrated initiation report[s] . . . shall consist of . . . ESG Analysis.”

12. By 2018, all DIMA investment professionals had access to a proprietary tool called the ESG Engine. The ESG Engine aggregates data from multiple ESG third-party vendors to provide a letter rating from A to F for thousands of issuers according to six rating categories, such as overall ESG quality, carbon and water risk, and controversial business conduct.

13. From at least 2019 through 2021, DIMA regularly described the breadth and use of the ESG Engine in its marketing materials and presentations to clients and prospective clients, and investors and prospective investors in DIMA’s ESG Integrated Products, and emphasized that DIMA’s investment professionals used the ESG Engine to assist with identifying ESG issues relevant to their investment recommendations.

14. For example, in December 2019, DIMA paid for an article to be published in an investment industry magazine. The article was a one-page interview with a senior DIMA leader and was titled “When ESG is in your DNA.” The article was publicly available on the Internet and, in January 2020, DIMA’s marketing department further disseminated the article to clients and prospective clients, and investors and prospective investors in DIMA’s ESG Integrated Products. In the article, the DIMA senior executive was asked “How do you make sure that your firm’s ESG DNA flows throughout the organization?” The leader answered, in part:

Ensuring that ESG is top of mind throughout our organization has become part of everything that we do. In 2014 we launched our DWS ESG Engine as a way to grow and analyze expertise across the full spectrum of responsible investing. Since then, this tool has become the centerpiece of our commitment to integrating ESG considerations into our investment process. Every DWS investment team uses it to make investment decisions for their portfolio.

15. Prior to publication, DIMA’s Marketing Review Group revised the language of the last sentence from “every” to “most.” However, the revision did not appear in the final published version. DIMA did not notice this misstatement after the publication, and the article remained

published on the Internet for clients and prospective clients, and investors and prospective investors to review.

16. DIMA also marketed the importance of ESG research to its investment process. For example, in response to more than a dozen requests for proposals (“RFPs”) from prospective clients, DIMA noted that its research analysts were required to identify and consider the most important ESG risks and opportunities in their analyses and recommendations.

### **DIMA’s ESG Investment Process**

17. Although DIMA marketed its ESG integration process by having the ESG Integration Policy available on the website from January 2019, and emphasizing its research requirements and other components in responses to RFPs and elsewhere, DIMA failed to have controls in place to ensure its personnel were implementing the Policy consistent with DIMA’s public representations.

18. First, while DIMA investment professionals were trained on the ESG Integration Policy, some in senior portfolio management positions were not aware of the ESG Integration Policy at all or were unsure if it applied to DIMA.

19. Second, DIMA lacked processes to consistently monitor or demonstrate their implementation of certain provisions of the Policy and the Equity and Credit Research Handbooks. Due to a lack of controls to monitor, ensure, and document compliance with these policies, DIMA senior management could not actually know if investment professionals were consistently following, or attempting to consistently follow, the requirements that they consider material ESG risk factors in each investment decision.

20. For example, notwithstanding the importance of the ESG Engine to the implementation of the ESG Integration Policy and the marketing of the ESG Integrated Products, DIMA did not have any formalized and documented process to evaluate or confirm whether its investment professionals had in fact consulted the ESG Engine’s ratings when they made investment recommendations or decisions for DIMA’s ESG Integrated Products. DIMA similarly lacked controls to ensure that material ESG risk factors were being considered and adequately documented in research notes. Prior to September 2021, while the template for research reports did include ESG Engine ratings, it did not have a required field in which research analysts were to identify ESG criteria they considered in the research report and they were often not documenting their consideration of ESG information.

21. DIMA also lacked standards for supervisors to follow in monitoring investment professionals’ compliance with the ESG Integration Policy, and guidance on quality checks for ESG integration in research reports. Until October 2021, the Policy stated that “Supervisors shall monitor [investment professionals’] compliance with this policy by monitoring . . . ESG comments in Research Notes.” However, the Policy contained no specificity about how this should be carried out, especially if research reports contained no mention of ESG. The Policy also did not address whether supervisors should assess whether ESG issues were incorporated in valuation models or investment recommendations other than via the research notes. The ESG Integration Team,

composed of one employee based in Frankfurt, conducted occasional ad hoc quality checks for ESG integration in research reports in 2018 and 2019. However, this review process was not widespread, formalized, or documented.

22. By 2020 senior members of the ESG Integration Team, which now had additional personnel, had identified a lack of execution of the ESG integration framework described in the ESG Integration Policy. In early 2020, more than a year after the ESG Integration Policy was first posted on the website, DWS looked to develop a system to track ESG integration efforts by the investment teams to monitor whether they were actually considering ESG factors as required. The research team encountered a number of issues as this system was developed over the course of 2020. First, unless a research note specifically mentioned ESG factors, there was no way to tell whether an analyst had considered ESG aspects when preparing the research note. Second, DWS employees at all levels, including at DIMA, had different understandings of their individual roles and responsibilities under the ESG Integration Policy. For instance, the ESG Integration Team expected research analysts to show their ESG integration efforts by documenting their consideration of material ESG risk factors in the research note. Some research analysts, however, thought they needed additional resources to be able to provide this documentation for every issuer. Similarly, despite the ESG Integration Policy requiring supervisors to monitor ESG comments in research notes, some research supervisors claimed a lack of resources and thought the task should be the responsibility of the ESG Integration Team.

23. Among other things, senior leadership in the division responsible for investment decisions endeavored to emphasize the importance of the ESG Integration Policy by sending supervisors, including DIMA supervisors, an email encouraging them to be ambassadors of ESG integration, but this step alone was insufficient and progress was gradual. Other senior leaders knew that the ESG Integration Team had received pushback from research analysts and their supervisors regarding monitoring and documenting compliance with the ESG Integration Policy, and knew that there were limitations on the time the ESG Integration Team could devote to the task, such that monitoring for ESG integration in models and recommendations was not being achieved consistently across the organization.

24. In the fourth quarter of 2020, the ESG Integration Team reviewed analysts' research notes on a more systematic basis. In so doing, they identified gaps between how analysts should be integrating ESG into the investment process and how they were actually integrating ESG. For example, quality checks conducted on a sample of research notes written between January and November 2020 showed that of the research notes sampled, only about 54% of active equity research notes and 21% of fixed income research notes mentioned ESG criteria. Despite these findings, DIMA did not have the Policy removed from the website, nor did DIMA revise its responses to RFPs, or make efforts to remove the paid investment industry magazine article from the Internet.

25. After some of the issues in monitoring responsibilities under the Policy and a failure to implement the Policy were identified in late 2020, DIMA began to make incremental improvements in identifying problems and working toward solutions. For instance, in September 2021, the research report template DIMA research analysts used was amended to include a section called "ESG" and required analysts to assess the investment from an ESG perspective and instructed

analysts to provide a conclusion of the ESG analysis that listed the most material ESG factors. Further, in October 2021, the ESG Integration Policy was revised to add some clarity around which supervisors were responsible for implementing the policy and on what to focus in reviewing research notes as well, including the identification of ESG issues. Subsequently, revisions were also made to the ESG aspect of the internal Quality Assurance process for research notes, regular ESG trainings for the investment platform were conducted within DIMA, the ESG quality of portfolios was reviewed, and multiple newly created corporate governance bodies began focusing on improving ESG capabilities.

### **DIMA Failed to Adopt and Implement Reasonably Designed Policies and Procedures**

26. Based on the foregoing, DIMA failed to adopt and implement written policies and procedures reasonably designed to prevent violations of the Advisers Act and the rules thereunder. Specifically, DIMA lacked policies and procedures necessary to ensure the representations it made on its website, in response to RFPs, or in other marketing materials concerning its ESG integration process were not materially misleading. To this end, it lacked policies and procedures to ensure its ESG Integration Policy was consistently followed by its investment professionals, and to confirm whether investment professionals consulted the ESG Engine, documented ESG factors in research notes, and incorporated ESG issues in valuation models and investment recommendations for the ESG Integrated Products.

### **Violations**

27. As a result of the conduct described above, DIMA willfully<sup>2</sup> violated Section 206(2) of the Advisers Act, which prohibits an investment adviser, directly or indirectly, from engaging “in any transaction, practice, or course of business which operates as a fraud or deceit upon any client or prospective client.” Scierer is not required to establish a violation of Section 206(2), which 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 Bureau, Inc.*, 375 U.S. 180, 194-95 (1963)).

28. As a result of the conduct described above, DIMA willfully violated Section 206(4) of the Advisers Act and Rule 206(4)-8 promulgated thereunder, which provides in relevant part that it is unlawful for an investment adviser to a pooled investment vehicle to make any untrue statement of a material fact or to omit to state a material fact necessary to make the statements made, in light of the circumstances under which they were made, not misleading, to any investor or prospective investor in the pooled investment vehicle. A violation of Section 206(4) and the rules thereunder

---

<sup>2</sup> “Willfully,” for purposes of imposing relief under 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).

does not require scienter, and may rest on a finding of simple negligence. *Steadman*, 967 F.2d at 647.

29. As a result of the conduct described above, DIMA willfully violated Section 206(4) of the Advisers Act and Rule 206(4)-7 thereunder, which require investment advisers registered or required to be registered with the Commission to adopt and implement written policies and procedures reasonably designed to prevent violations of the Advisers Act and the rules thereunder.

### **Remedial Efforts and Cooperation**

In determining to accept the Offer, the Commission considered remedial acts undertaken by Respondent and cooperation afforded the Commission staff. For example, throughout the staff's investigation, DIMA provided detailed factual summaries and made substantive presentations on key topics. As discussed above, DIMA's remedial steps include, but are not limited to, modifying relevant processes, policies, procedures, and controls.

### **IV.**

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

Accordingly, pursuant to Sections 203(e) and 203(k) of the Advisers Act, it is hereby ORDERED that:

A. DIMA cease and desist from committing or causing any violations and any future violations of Sections 206(2) and 206(4) of the Advisers Act and Rules 206(4)-7 and 206(4)-8 thereunder.

B. DIMA is censured.

C. DIMA shall, within 10 days of the entry of this Order, pay a civil money penalty in the amount of \$19,000,000 to the Securities and Exchange Commission for transfer to the general fund of the United States Treasury, subject to Section 21F(g)(3) of the Securities Exchange Act of 1934. 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 DWS Investment Management Americas, Inc. as a Respondent 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 Brianna Ripa, Assistant Director, Asset Management Unit, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549.

D. 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, Respondent agrees that in any Related Investor Action, it shall not argue that it is entitled to, nor shall it benefit by, offset or reduction of any award of compensatory damages by the amount of any part of Respondent's payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, Respondent agrees that it 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 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