

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 100176 / May 20, 2024

ADMINISTRATIVE PROCEEDING
File No. 3-20060

In the Matter of

**Bayerische Motoren Werke
Aktiengesellschaft, BMW of North
America, LLC, and BMW US
Capital, LLC,**

Respondents.

**ORDER APPROVING APPLICATION
OF FUND ADMINISTRATOR FOR
PAYMENT OF FEES AND EXPENSES
AND AUTHORIZING APPROVAL AND
PAYMENT OF FEES AND EXPENSES
OF ADMINISTRATION**

On September 24, 2020, 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 Bayerische Motoren Werke Aktiengesellschaft, BMW of North America, LLC, and BMW US Capital, LLC (collectively, the “Respondents”). In the Order, the Commission ordered the Respondents to pay an \$18,000,000 civil money penalty to the Commission and that the funds paid pursuant to the Order be held in an account at the United States Treasury pending a decision whether the Commission, in its discretion, would seek to distribute the funds or transfer them to the general fund of the U.S. Treasury. The Respondents paid in full.

On April 7, 2022, the Commission issued an order² that 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”).

The Fair Fund is comprised of the \$18,000,000 paid by the Respondents. The Fair Fund is deposited in a Commission-designated account at the United States Department of the Treasury, and any accrued interest will be added to the Fair Fund.

¹ Securities Act Rel. No. 10850 (Sept. 24, 2020).

² Order Establishing a Fair Fund, Exchange Act Rel. No. 94623 (Apr. 7, 2022).

On September 14, 2022, the Division of Enforcement, pursuant to delegated authority, issued an order appointing Kurtzman Carson Consultants, LLC as the fund administrator of the Fair Fund (the “Fund Administrator”) and set the administrator’s bond amount.³

In accordance with Rule 1105(d) of the Commission’s Rules,⁴ the Fund Administrator has submitted to the Commission staff an invoice for services rendered from September 14, 2022, through May 31, 2023, totaling \$843.75. The Commission staff has reviewed the Fund Administrator’s invoice, confirmed that the services have been provided, and finds the fees and expenses of \$843.75 to be reasonable. The Commission staff has requested that the Commission authorize the Office of Financial Management (“OFM”) to pay the Fund Administrator’s fees and expenses of \$843.75 from the Fair Fund in accordance with Rule 1105(e) of the Commission’s Rules.⁵

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 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 an approved cost proposal submitted by the Fund Administrator.

Accordingly, it is hereby ORDERED, pursuant to Rule 1105(d) of the Commission’s Rules,⁶ that OFM pay the Fund Administrator’s fees and expenses of \$843.75 from the Fair Fund in accordance with Rule 1105(e) of the Commission’s Rules.⁷ Further, OFM is authorized to pay, at the direction of an Assistant Director of the Office of Distributions, any fees and expenses of the Fund Administrator from the Fair Fund in accordance with Rule 1105(e) of the Commission’s Rules,⁸ so long as the total amount paid to the Fund Administrator, including the invoice to be paid, does not exceed the total amount of an approved cost proposal submitted by the Fund Administrator.

For the Commission, by the Division of Enforcement, pursuant to delegated authority.⁹

Vanessa A. Countryman
Secretary

³ Order Appointing Fund Administrator and Setting Administrator’s Bond Amount, Exchange Act Rel. No. 95766 (Sept. 14, 2022).

⁴ 17 C.F.R. § 201.1105(d).

⁵ 17 C.F.R. § 201.1105(e).

⁶ 17 C.F.R. § 201.1105(d).

⁷ 17 C.F.R. § 201.1105(e).

⁸ 17 C.F.R. § 201.1105(e).

⁹ 17 C.F.R. § 200.30-4(a)(21)(vi).