

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

**INVESTMENT ADVISERS ACT OF 1940**  
**Release No. 6826 / January 17, 2025**

**ADMINISTRATIVE PROCEEDING**  
**File No. 3-22426**

**In the Matter of**

**TRANSAMERICA  
RETIREMENT  
ADVISORS, LLC,**

**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 Transamerica Retirement Advisors, LLC (“Transamerica Retirement Advisors” or “Respondent”).

**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 it 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:

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<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.

## **Summary**

1. Transamerica Retirement Advisors, a registered investment adviser, breached its fiduciary duty to certain of its advisory clients by failing to disclose conflicts of interest created by paying incentive compensation to its investment advisor representatives in connection with the rollover of retirement assets to accounts with Transamerica Retirement Advisors (“advisory accounts”). Transamerica Retirement Advisors offered investment education and managed account services to participants of employer-sponsored retirement plans (“employer plans”) in connection with recordkeeping services provided to these plans by an affiliate of Transamerica Retirement Advisors. Starting in June 2017, Transamerica Retirement Advisors paid incentive compensation to its Retirement Planning Consultants (“Retirement Consultants”) for referring employer plan participants to its investment advisor representatives in its Transamerica Advice Center (“TAC Advisors”) to consider whether to rollover plan assets into advisory accounts. Also in June 2017, Transamerica Retirement Advisors began paying incentive compensation to its TAC Advisors when those participants rolled over their assets into advisory accounts.

2. Transamerica Retirement Advisors did not, however, start disclosing the conflicts of interest created by paying incentive compensation to its investment advisor representatives in connection with rollovers until February 2022. Instead, in years prior to 2022, Respondent made limited conflict disclosures regarding incentives it “may” provide its advisors, which were misleading in light of the incentive compensation Respondent was actually paying its Retirement Consultants and TAC Advisors concerning rollovers of employer plan participants’ assets.

3. During this period from June 1, 2017, to February 1, 2022 (the “Relevant Period”), approximately 7,300 employer plan participants rolled over approximately \$1.2 billion into advisory accounts without disclosure of these conflicts of interest. In addition, Respondent failed to implement written compliance policies and procedures reasonably designed to prevent violations of the Advisers Act and the rules thereunder in connection with disclosure of these conflicts of interest.

4. Based on the foregoing and as detailed below, Respondent violated Sections 206(2) and 206(4) of the Advisers Act and Rule 206(4)-7 thereunder.

## **Respondent**

5. Transamerica Retirement Advisors is a Delaware limited liability company based in Cedar Rapids, Iowa. It has been registered with the Commission as an investment adviser since 1992. In its Form ADV dated August 1, 2024, Respondent reported approximately \$12.7 billion in regulatory assets under management. Respondent offers advisory products and services, including managed account services to clients within its retirement accounts, Individual Retirement Accounts, and taxable accounts. Transamerica Retirement Advisors is a wholly owned subsidiary of Transamerica Retirement Solutions, LLC (“Transamerica Retirement Solutions”). Transamerica Retirement Solutions contracts with employers to provide recordkeeping and administrative services for employer-sponsored retirement plans.

## **Background**

6. During the Relevant Period, Transamerica Retirement Advisors provided

investment education and certain advisory services to employer sponsored plans. As of December 31, 2021, Respondent provided these services to approximately 9,400 employer sponsored plans with approximately 1,500,000 participants who held accounts with Transamerica Retirement Solutions. Respondent provided managed account services to participants if employer plans chose to make that service available to participants. In addition, Respondent offered managed account asset allocation services, which included Transamerica Retirement Advisors Personalized Portfolios (“TPP”) and Third-Party Money Management Services (“TPMM”) programs, to retail clients. These services were not available within employer sponsored plans.

7. The TPP and TPMM programs were sponsored by Respondent with advisory services provided by third party investment advisers, which were responsible for developing the investment programs and selecting the investments. TAC Advisors recommended to a client whether to rollover assets into an advisory account, the advisory program in which to invest, and a specific investment strategy to follow. Respondent received a quarterly advisory fee based on assets under management in TPP and TPMM advisory program accounts.

8. Retirement Consultants and TAC Advisors are licensed as investment adviser representatives with Transamerica Retirement Advisors. During the Relevant Period, when an employer elected to offer education services for their plan participants, Retirement Consultants provided educational information and administrative support to plan participants, including educating participants about a plan’s investment options. Retirement Consultants were trained to identify participants who had a need for investment advice and refer them to TAC Advisors to discuss their financial options, including rolling over assets to advisory accounts. Retirement Consultants were incentivized to refer participants who had “eligible assets,” were “ready to engage in a conversation about moving the assets,” and were “actively looking for guidance and advice” from a TAC Advisor. Such participants included persons who were retired, planned to retire within two years, or were changing jobs. TAC Advisors, but not the Retirement Consultants, were permitted to provide investment advice, which included making recommendations to participants to stay in their existing employer plan account or to roll over their assets into advisory accounts.

### **Respondent’s Incentive Compensation Plans**

9. Throughout the Relevant Period, Transamerica Retirement Advisors compensated its Retirement Consultants for referring employer plan participants to TAC Advisors, including for referrals that ultimately resulted in participants rolling over their plan assets into advisory accounts. This incentive compensation was based on whether the Retirement Consultant made a referral to the TAC Advisor and was not generally conditioned on whether the participants rolled over their assets into advisory accounts. Retirement Consultants received variable incentive compensation that was based on multiple activity-based metrics, one of which included the number of referrals made to TAC Advisors. In certain years, Retirement Consultants also received a flat fee for each referral made. In addition, in certain years, whether participants rolled over into advisory accounts after the referral was a factor in bonus calculations for Retirement Consultants. These elements of compensation provided incentives for Retirement Consultants to refer employer plan participants to TAC Advisors, including for potential rollovers to advisory accounts. The number of referrals to TAC Advisors was considered in evaluating Retirement

Consultants' performance.

10. During the Relevant Period, under Respondent's incentive compensation plans, when TAC Advisors consulted with participants and recommended that they roll over their assets into advisory accounts, the TAC Advisors received variable compensation based on a percentage of the assets rolled over into the advisory accounts and/or a flat fee. These compensation plans incentivized TAC Advisors to recommend that employer plan participants rollover their assets into Transamerica Retirement Advisors accounts, which offered Respondent's TPP and TPMM managed account services.

### **Disclosure Deficiencies**

11. As an investment adviser, Transamerica Retirement Advisors was obligated to disclose all material facts to its advisory clients. This included conflicts of interest between Respondent – including the Retirement Consultants and TAC Advisors – and the employer plan participants that could affect the advisory relationship and the advice Respondent provided these participants. To meet this fiduciary obligation, Respondent was required to provide employer plan participants with full and fair disclosure that was sufficiently specific so that they could understand the conflicts of interest concerning Respondent's advice about rolling over employer plan assets into Transamerica Retirement Advisors accounts to invest in Respondent's managed account products.

12. During the Relevant Period, Respondent did not adequately disclose all material facts regarding the conflicts of interest that arose when employer plan participants considered rolling over their assets into advisory accounts. Although Respondent disclosed to participants the costs and fees of the TPMM and TPP services when it recommended rollovers, Respondent did not disclose the conflicts of interest related to the incentive compensation it paid to Retirement Consultants and TAC Advisors in communications with participants, in Respondent's Form ADVs, or in the TPMM and TPP product brochures.

13. Instead, Respondent disclosed that, from time to time, it "may" offer "incentive trips" to its advisors based on overall productivity. Respondent further disclosed that the trips provided an incentive for advisors to sell advisory products generally and that it managed the conflict by training and monitoring its advisors. These disclosures appeared in the product brochures for TPP and TPMM starting on March 30, 2018. In its March 2020 and March 2021 TPP and TPMM brochures, Respondent stated that, from time to time, it "may" also offer "incentive compensation" to its advisors for overall productivity. These disclosures were misleading because, in fact, when TAC Advisors opened new client accounts for rollover transactions, they received either a flat fee or variable compensation based on the amount invested.

14. After the Commission's investigation in this matter began, Respondent began updating its TPMM and TPP brochures on February 1, 2022, and March 22, 2022, to include disclosure of the conflicts of interest from Retirement Consultants' and/or TAC Advisors' incentive compensation. The March 2022 TPP brochure stated that Retirement Consultants receive bonus and incentive compensation based in part on the number of referrals of employer plan participants to TAC Advisors to consider rollovers. Respondent made similar disclosures

regarding Retirement Consultants' compensation in the TPMM brochure later in 2022. Both the February and March 2022 brochures disclosed that TAC Advisors receive either a flat fee and/or variable compensation based on the amount invested for opening advisory accounts. All of the foregoing disclosures acknowledged that these incentive compensation programs created conflicts of interest because they provided an incentive for Retirement Consultants to refer employer plan participants to TAC Advisors and for TAC Advisors to recommend rollovers to employer plan participants.

15. Retirement Consultants referred approximately 38,000 employer plan participants to TAC Advisors and approximately 7,300 of these participants rolled over \$1.2 billion of employer plan assets into advisory accounts, resulting in additional revenue of approximately \$12 million for Respondent during the Relevant Period.

### **Policies and Procedures Deficiencies**

16. During the Relevant Period, Transamerica Retirement Advisors failed to implement written policies and procedures reasonably designed to prevent violations of the Advisers Act and the rules thereunder in connection with disclosure of conflicts of interest presented by its incentive compensation plans for Retirement Consultants and TAC Advisors. In 2017, Respondent's policies and procedures did not require an annual review of its compensation plans that featured incentive compensation. Starting in 2018, Respondent's policies and procedures called for an annual review of its compensation plans that featured incentive compensation, which Respondent conducted, and disclosure of all material conflicts of interest under the Advisers Act. Nevertheless, Respondent did not provide full and fair disclosure of the incentive compensation provided to its Retirement Consultants and TAC Advisors for the referrals and rollover transactions discussed above.

### **Violations**

17. As a result of the conduct described above, Respondent willfully<sup>2</sup> violated Section 206(2) of the Advisers Act, which makes it unlawful for any investment adviser, directly or indirectly, to "engage in any transaction, practice or course of business which operates as a fraud or deceit upon any client or prospective client." Scienter is not required to establish a violation of Section 206(2), but rather a violation may rest on a finding of 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)).

18. As a result of the conduct described above, Respondent willfully violated Section 206(4) of the Advisers Act and Rule 206(4)-7 thereunder, which require a registered investment adviser to adopt and implement written compliance policies and procedures reasonably designed

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<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[ed]" material information from a required disclosure in violation of Section 207 of the Advisers Act).

to prevent violations of the Advisers Act and the rules thereunder.

### **Remedial Efforts and Cooperation**

19. In determining to accept Respondent's Offer, the Commission considered remedial acts undertaken by Respondent and cooperation afforded the Commission staff.

#### **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. Respondent shall 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 Rule 206(4)-7 promulgated thereunder.

B. Respondent is censured.

C. Respondent shall pay a civil monetary penalty in the amount of \$2,900,000 consistent with the provisions of this Subsection IV.C.

- (i) Pursuant to Section 308(a) of the Sarbanes-Oxley Act of 2002, as amended, a Fair Fund is created for the penalties described above for distribution to affected investors who are not affiliated with Respondent. 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.
- (ii) Within ten (10) days of the issuance of this Order, Respondent shall deposit \$2,900,000 (the "Fair Fund") into an escrow account at a financial

institution not unacceptable to the Commission staff and shall provide evidence of such deposit in a form acceptable to the Commission staff. The account holding the assets of the Fair Fund shall bear the name and the taxpayer identification number of the Fair Fund. If timely payment into the escrow account is not made, additional interest shall accrue pursuant to SEC Rule of Practice 600 [17 C.F.R. § 201.600] and/or 31 U.S.C. § 3717.

- (iii) Respondent shall be responsible for administering the Fair Fund and may hire a professional at its own cost to assist it in the administration of the distribution. The costs and expenses of administering the Fair Fund, including any such professional services, shall be borne by Respondent and shall not be paid out of the Fair Fund.
- (iv) Respondent shall distribute from the Fair Fund to each affected investor an amount representing each affected investor's pro rata share of assets initially transferred or rolled over to an advisory account pursuant to a disbursement calculation (the "Calculation") that will be submitted to, reviewed, and approved by the Commission staff in accordance with this Subsection IV.C. No portion of the Fair Fund shall be paid to any affected investor account in which Respondent, or any of its current or former officers or directors, have a financial interest.
- (v) Respondent shall, within ninety (90) days of the date of this Order, submit a proposed Calculation to the Commission staff for review and approval. At or around the time of submission of the proposed Calculation to the staff, Respondent shall make itself available, and shall require any third-parties or professionals retained by Respondent to assist in formulating the methodology for its proposed Calculation and/or administration of the distribution to be available, for a conference call with the Commission staff to explain the methodology used in preparing the proposed Calculation and its implementation, and to provide the staff with an opportunity to ask questions. Respondent also shall provide to the Commission staff such additional information and supporting documentation as the Commission staff may request for the purpose of its review. In the event of one or more objections by the Commission staff to Respondent's proposed Calculation or any of its information or supporting documentation, Respondent shall submit a revised Calculation for the review and approval of the Commission staff or additional information or supporting documentation within ten (10) days of the date that Respondent is notified of the objection. The revised Calculation shall be subject to all of the provisions of this Subsection IV.C.
- (vi) Respondent shall, within thirty (30) days of the written approval of the Calculation by the Commission staff, submit a payment file (the "Payment File") for review and acceptance by the Commission staff demonstrating the application of the methodology to each affected investor. The Payment File should identify, at a minimum: (1) the name of each affected investor,

(2) the net amount of the payment to be made, less any tax withholdings; and (3) the amount of any *de minimis* threshold to be applied. Respondent shall exclude from the payee file all payments to payees that appear on the U.S. Treasury Department Specially Designated Nationals List.

- (vii) Respondent shall disburse all amounts payable to affected investors within ninety (90) days of the date the Commission staff accepts the Payment File, unless such time period is extended as provided in Paragraph (xi) of this Subsection IV.C. Respondent shall notify the Commission staff of the date and the amount paid in the initial distribution.
- (viii) If Respondent is unable to distribute or return any portion of the Fair Fund for any reason, including an inability to locate an affected investor or a beneficial owner of an affected investor account or any factors beyond Respondent's control, Respondent shall transfer any such undistributed funds to the Commission for transmittal to the United States Treasury in accordance with Section 21F(g)(3) of the Exchange Act once the distribution of funds is complete and before the final accounting provided in Paragraph (x) of this Subsection IV.C is submitted to the Commission staff. Payment must be made in one of the following ways:
  - (a) Respondent may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;
  - (b) 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
  - (c) 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 Transamerica Retirement Advisors as the 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 Pei Y. Chung, Associate Director, Division of Enforcement, Securities and Exchange Commission, 100 F St., NE, Washington, DC 20549.

- (ix) A Fair Fund is a Qualified Settlement Fund (“QSF”) under Section 468B(g) of the Internal Revenue Code (“IRC”), 26 U.S.C. §§1.468B.1-1.468B.5. Respondent agrees to be responsible for all tax compliance responsibilities associated with the Fair Fund’s status as a QSF. These responsibilities involve reporting and payment requirements for the Fund, including but not limited to: (1) tax returns for the Fair Fund; (2) information return reporting regarding the payments to investors, as required by applicable codes and regulations; and (3) obligations from compliance with the Foreign Account Tax Compliance Act (FATCA). Respondent may retain any professional services necessary. The costs and expenses of tax compliance, including any such professional services, shall be borne by Respondent and shall not be paid out of the Fair Fund.
- (x) Within one hundred fifty (150) days after Respondent completes the disbursement of all amounts payable to the affected investors, Respondent shall return all undisbursed funds to the Commission pursuant to the instructions set forth in this Subsection IV.C. Respondent shall then submit to the Commission staff a final accounting and certification of the disposition of the Fair Fund for Commission approval. The final accounting shall be in a format to be provided by the Commission staff. The final accounting and certification shall include, but not be limited to: (1) the amount paid to each affected investor; (2) the date of each payment; (3) the check number or other identifier of money transferred or credited to each affected investor; (4) the amount of any returned payment and the date received; (5) a description of the efforts to locate an affected investor whose payment was returned or to whom payment was not made for any reason; (6) the total amount, if any, to be forwarded to the Commission for transfer to the United States Treasury; and (7) an affirmation that Respondent has made payments from the Fair Fund to affected investors in accordance with the Calculation approved by the Commission staff. The final accounting and certification shall be submitted under a cover letter that identifies Respondent and the file number of these proceedings to Pei Y. Chung, Associate Director, Division of Enforcement, Securities and Exchange Commission, 100 F St., NE, Washington, DC 20549. Respondent shall provide any and all supporting documentation for the accounting and certification to the Commission staff upon its request and shall cooperate with any additional requests by the Commission staff in connection with the accounting and certification.

- (xi) The Commission staff may extend any of the procedural dates set forth in this Subsection IV.C for good cause shown. Deadlines for dates relating to the Fair Fund shall be counted in calendar days, except if the last day falls on a weekend or federal holiday, next business day shall be considered the last day.

By the Commission.

Vanessa A. Countryman  
Secretary