

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

INVESTMENT ADVISERS ACT OF 1940
Release No. 2271 / August 2, 2004

INVESTMENT COMPANY ACT OF 1940
Release No. 26523 / August 2, 2004

ADMINISTRATIVE PROCEEDING FILE NO. 3-11572

In the Matter of

FRANKLIN ADVISERS, 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 AND
SECTIONS 9(b) AND 9(f) OF THE INVESTMENT
COMPANY 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”) and Sections 9(b) and 9(f) of the Investment Company Act of 1940 (“Investment Company Act”) against Franklin Advisers, Inc. (“Franklin” or “Respondent”).

II.

In anticipation of the institution of these proceedings, Franklin 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, Franklin 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 and Sections 9(b) and 9(f) of the Investment Company 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 Franklin's Offer, the Commission finds¹ that:

Summary

1. Market timing includes (i) frequent buying and selling of shares of the same mutual fund or (ii) buying or selling mutual fund shares in order to exploit inefficiencies in mutual fund pricing. Market timing, while not illegal *per se*, can harm other mutual fund shareholders because it can dilute the value of their shares, if the market timer is exploiting pricing inefficiencies, or disrupt the management of the mutual fund's investment portfolio. It can also cause the targeted mutual fund to incur costs borne by other shareholders to accommodate frequent buying and selling of shares by the market timer.

2. Franklin acted contrary to public disclosures and in violation of fiduciary duties when it allowed certain parties to market time funds it advised. This misconduct falls into these categories: (i) during at least 1996-2001, Franklin followed an undisclosed practice under which it approved requests to conduct market timing in a manner that conflicted with certain guidelines in the fund prospectuses; (ii) during 1998-2000, Franklin allowed a representative of a broker-dealer to market time a Franklin fund that prohibited investments by market timers; (iii) Franklin failed to disclose that over 30 identified market timers were allowed to freely market time for several months in 2000, contrary to prospectus language that indicated market timing would be monitored and restricted; (iv) after other identified timers were told to stop their activities in September 2000, Franklin gave one favored timer permission to continue to time \$75 million in assets with unlimited trades for several more months; and (v) also after September 2000, Franklin gave a known market timer permission to time a mutual fund that prohibited investments by market timers simultaneously with the timer making a \$10 million investment in a new hedge fund.

3. By virtue of the activities alleged herein, Franklin willfully violated Sections 206(1) and 206(2) of the Investment Advisers Act of 1940 ("Advisers Act") and Section 34(b) of the Investment Company Act of 1940 ("Investment Company Act").

Respondent

4. Franklin is an investment adviser registered with the Commission and headquartered in San Mateo, California. Franklin provides investment advisory, portfolio management, and administrative services to a majority of the mutual funds in the Franklin Templeton Investments complex. Franklin earns fees based on assets that are under management in the funds for which Franklin serves as investment adviser.

5. Franklin is a wholly owned subsidiary of Franklin Resources, Inc., a Delaware corporation headquartered in San Mateo, California, that has securities registered under Section 12(g) of the Securities Exchange Act of 1934 and files periodic reports with the Commission.

¹ The findings herein are made pursuant to Franklin's Offer and are not binding on any other persons or entities in this or any other proceeding.

Franklin Resources, Inc. and its subsidiaries operate under the name “Franklin Templeton Investments,” here shortened to “FT.” Through the subsidiaries, FT provides a broad range of investment advisory, investment management, and related services to open-end investment companies, including a family of over 100 retail mutual funds referred to herein as the “FT funds.”

Facts

Franklin Followed an Undisclosed Practice Under Which it Allowed Timers to Trade in a Manner That Conflicted With Certain Guidelines in the Fund Prospectuses.

6. Since at least 1996, prospectuses for FT funds have generally contained language addressing market timing activity. The language has varied from fund to fund and over time, but the prospectuses have typically stated that a shareholder who engages in more than two round-trips (a purchase into a fund followed by sale out of the fund) in a calendar quarter “will be” considered a market timer, or “may be” considered a market timer. Prospectuses have also indicated that shareholders who buy or sell in amounts equal to at least \$5 million, or more than 1% of the fund's net assets, “may be” or “will be” considered market timers. Some fund prospectuses have absolutely prohibited investments by market timers, while others have said the fund “may” reject market timers. Although language has varied, the prospectuses have created a clear impression that market timing in FT funds was discouraged and would be closely monitored and restricted with reference to the round-trip and transaction amount limitations stated in the prospectuses.

7. During at least 1996-2001, Franklin entertained requests to conduct market timing trading under a standard different from that expressed in the prospectuses. At times, parties would seek advance approval to conduct market timing in FT funds. Such requests were forwarded to Franklin portfolio managers. Although the prospectuses contained numerical guidelines regarding the frequency and dollar amounts of timing trades that might be allowed by the funds, Franklin actually decided whether to grant the requests based solely on whether the portfolio managers thought the proposed trading would be disruptive to the fund involved. Contrary to what the public would have understood from reading the FT prospectuses, the prospectus guidelines were irrelevant to Franklin’s decisions. Franklin approved timing agreements inconsistent with the prospectus guidelines. None of the FT prospectuses disclosed this practice nor did Franklin disclose the practice to the fund boards or to fund shareholders. Franklin earned fees on the assets used in the timing it permitted under its undisclosed practice.

8. While Franklin was following the practice, it participated in annual reviews of the prospectuses, which were incorporated in registration statements filed by the registered investment companies that operated FT funds. During the reviews, Franklin could suggest changes in the prospectus language, yet Franklin never caused the language to be changed to reflect its undisclosed practice.

From July 1998 Through September 2000, Franklin Permitted Timing
in a Fund That Firmly Prohibited It.

9. During July 1998 through September 2000, Franklin allowed undisclosed market timing in a fund that flatly prohibited investments by market timers.
10. In July 1998, a representative of a broker-dealer sought permission to frequently trade on behalf of two clients in a FT mutual fund. The representative's clients were partnerships that often engaged in market timing.
11. Consistent with Franklin's practice, the representative's request was forwarded to the Franklin portfolio manager for the mutual fund. Without consulting the fund's prospectus, the portfolio manager concluded that allowing the representative to make up to five round-trip trades per quarter of \$5 million each in the fund would not be disruptive, and Franklin then approved the representative's request. At that time, the prospectus for the fund stated in general terms that the fund did not allow "investments by market timers." Six weeks later, the prospectus language was changed to make clear that any shareholder who made more than two round-trip exchanges per calendar quarter would be considered a market timer and prohibited from trading in the fund. After this change, the broker-dealer representative continued to trade actively and profitably under his arrangement until approximately September 2000, when FT as a whole made efforts to stop most identified market timers.

Franklin Failed to Disclose That Identified Timers Were Allowed
to Freely Time FT Funds During Several Months in 2000.

12. Starting in late 1999 and continuing through September 2000, FT generally made efforts to better detect and stop unauthorized market timing in its funds. For several months during this period, however, identified timers were allowed to continue their timing activities largely without limitation. Franklin failed to disclose that it was allowing certain timers to trade in a manner inconsistent with prospectus language.
13. In late 1999, FT staff began to collect information on the activities of unauthorized market timers as a part of an effort to better control them. By early 2000, staff of FT's broker-dealer and transfer agent subsidiaries had identified 36 representatives of third-party broker-dealers, investment advisers, and customers as "repeat offenders" who had market timed FT funds without permission, including funds advised by Franklin. By April 2000, the staff estimated that about \$1 billion in unauthorized timing money was held in FT funds. Because each timer moved money in and out of funds repeatedly, the \$1 billion produced many billions of dollars in timing trades, in the aggregate.
14. In April 2000, FT's broker-dealer subsidiary approved a plan to study market timing as part of a long-term plan to combat it. During the study period, the 36 timers were allowed to continue their timing activities as they had before, but with several limitations: (i) most of the timers were asked to place their trades through the market timing desk operated by FT's transfer agent subsidiary; (ii) the timers were asked to not put any new timing money into FT funds; and (iii) the timers could not time funds with prospectuses that flatly prohibited market timing. Also,

if a portfolio manager happened to notice and object to timing activity in his or her fund, the market timing desk would attempt to limit the activity. The plan was to study the timers' activities during the period required for the funds to adopt and implement revised prospectus language that would enable FT to more effectively restrict timing at a later date. However, notwithstanding the revision of the prospectus language, FT could have immediately begun rejecting the identified timers' trades and thereby decreased their activity.

15. A senior executive of the broker-dealer subsidiary told a Franklin officer that he did not favor allowing the 36 timers to continue timing freely and instead wanted to do whatever was possible to combat the timers immediately. The Franklin officer disagreed and overruled him.

16. Franklin did not disclose to the boards of the affected funds or to investors that the identified timers were being allowed to continue their timing. Fund prospectuses, which gave investors the impression that timing in FT funds would be closely monitored and restricted, were thereby rendered misleading during the period of the free timing.

17. In September 2000, the free timing period ended. After a legal review and advance notice to shareholders, the FT funds implemented revised prospectus language to better restrict market timing. At the same time, staff of the market timing desk informed the identified timers that they could no longer time the FT funds and imposed stop codes on accounts or on trades by certain registered representatives to prevent timing. During the free timing period, the 36 identified timers conducted extensive and profitable trading in FT funds.

Even After Taking Steps to Stop All Market Timing Activity in September 2000,
Franklin Allowed One Market Timer to Continue Timing.

18. Although the market timing desk cut off all the other identified timers in September 2000, Franklin gave permission for an investment management firm ("the IMF") to continue to market time through the end of the year. In an undisclosed arrangement, Franklin had been allowing the IMF to time two tax-free bond funds for several years.

19. The IMF's market timing trading began in approximately 1996. The IMF's founder was an acquaintance of a senior executive of FT. The senior executive asked a Franklin officer to introduce the IMF's founder to the portfolio managers for FT's bond funds. After the Franklin officer did so, the IMF founder received approval from Franklin to make frequent trades in two of the bond funds. Both before and after this point, Franklin and other entities within FT denied other traders' requests for timing privileges in various other FT funds.

20. The IMF initially traded only \$7 million in timing assets in and out of the two bond funds. By January 1998, the IMF's timing money in the funds had increased to at least \$185 million. A supervisor in Franklin's municipal bond department ("the bond fund supervisor") wrote an email complaining that the magnitude of the IMF's trading was disrupting the management of the funds. The bond fund supervisor proposed reducing the size of the timing assets and/or limiting the number of exchanges. He complained that having to keep the IMF's timing money in short-term securities rather than the funds' long-term bonds was making it more difficult to maintain the funds' dividends. He pointed out that the IMF's trading had exceeded

activity levels set forth in market timing guidelines in the prospectuses for the funds. In March 1998, one of the bond funds temporarily experienced inadequate cash as a byproduct of processing adjustments that had to be made on the IMF's trades.

21. In response to the bond fund supervisor's complaints, a Franklin officer suggested allowing the IMF to make 10 round-trips (a purchase into a fund followed by sale out of the fund) per year with \$140 million in timing assets. In July 1998 after a series of email exchanges, the bond fund supervisor said that he could "live with" the IMF's money being reduced to \$50 million in one fund and \$25 million in the other fund, with no limit on the frequency or size of round-trips. Franklin approved this arrangement, giving the IMF six months to reduce the timing assets to the agreed levels. The assets were not reduced to those levels until the end of the six-month grace period. Therefore, from the time when the bond fund supervisor first complained about the excessive and problematic trading in early 1998 until the end of that year, the IMF was permitted to trade in excess of levels the bond fund supervisor was comfortable with.

22. The IMF continued to time the two bond funds throughout 1999 and 2000. In particular, when the free timing period ended in September 2000, Franklin permitted the IMF to continue timing until the end of the year. The trading privileges granted to the IMF were never disclosed to the boards of the bond funds or to investors. During 1997-2000, the IMF traded extensively and profitably in the two bond funds.

In 2001, Franklin Gave a Known Market Timer Permission to Time a Fund That Prohibited Market Timers Simultaneous With His Investment in a New Hedge Fund.

23. In August 2001, after FT had stopped market timing activity, Franklin gave a known market timer undisclosed permission to time a mutual fund that flatly prohibited market timers. At about the same time, the market timer invested \$10 million in a new FT hedge fund.

24. In early 2001, FT began to develop a hedge fund business. An employee of a FT subsidiary ("the subsidiary employee") was assigned to work on establishing funds and attracting investors.

25. In seeking investors for a hedge fund, the subsidiary employee came into contact with an individual who for several years conducted a massive scheme of market timing. During the course of his scheme, this individual ("the timer") and his associates contacted many mutual fund companies seeking so-called timing capacity.

26. By the time the subsidiary employee and the timer made contact in early 2001, the timer had already market timed FT funds, without permission. In approximately June 2001, FT's broker-dealer subsidiary rejected a proposed \$30 million investment by the timer because it was viewed as market timing money.

27. In August 2001, the timer wrote emails to the subsidiary employee asking for permission to conduct up to twelve round-trips per quarter of up to \$45 million each in a FT mutual fund for which Franklin served as investment adviser. The timer stated that in return for the trading privileges he sought, he would invest \$10 million in the hedge fund.

28. The prospectus for the mutual fund stated that the fund did “not allow investments by Market Timers” and Franklin knew that the timer was a market timer. Nonetheless, Franklin granted the timer’s request to trade in the mutual fund based on the portfolio manager’s view that the trading would not disrupt the fund and on the condition that the mutual fund trading and hedge fund investment could not be linked. Contrary to Franklin’s directive and without Franklin’s knowledge, the subsidiary employee struck an arrangement with the timer under which the timer’s investment in the hedge fund was linked to his being able to conduct the round-trips in the mutual fund.

29. In early September 2001, the timer put \$10 million in the hedge fund, becoming its first investor. From mid-September through late October, the timer made three round-trips of roughly \$20 million in the mutual fund. After the three round-trips, the timer conducted no further trading in FT mutual funds. The special trading privileges granted to the timer were never disclosed to the board of the mutual fund involved or to investors.

FT Has Generally Tried in Good Faith to Stop Market Timing.

30. Despite the conduct described above, FT as a whole has generally sought to detect, discourage, and prevent market timing in its funds. FT began to increase its efforts to control market timing in 1999, at a time when other mutual fund complexes were encouraging timers. FT has rejected many potentially lucrative proposals from market timers. As described above, however, Franklin allowed some market timing in violation of fund disclosures and its fiduciary duties.

Violations

31. As a result of the conduct described above, Franklin willfully violated Sections 206(1) and 206(2) of the Advisers Act in that it, while acting as an investment adviser, employed devices, schemes, or artifices to defraud clients or prospective clients; and engaged in transactions, practices, or courses of business which operated or would operate as a fraud or deceit upon clients or prospective clients. Specifically, Franklin followed a practice under which it considered market timing requests without considering the relevant prospectus language on market timing. This practice, which Franklin never disclosed to fund boards and investors, resulted in extensive market timing. Franklin also failed to disclose to fund boards or investors that during the free timing period, identified market timers were allowed to continue their extensive timing activities. Franklin’s undisclosed practice and the timing allowed during the free timing period were contrary to the impression given investors by the language of the prospectuses and thus rendered the prospectuses materially false and misleading.

32. As a result of the conduct described above, Franklin willfully violated Section 34(b) of the Investment Company Act in that it made an untrue statement of material fact in a registration statement, application, report, account, record, or other document filed or transmitted pursuant to the Investment Company Act, or omitted to state therein any fact necessary in order to prevent the statements made therein, in the light of the circumstances under which they were made, from being materially misleading.

Certain Remedial Efforts and Undertakings

33. In determining to accept the Offer, the Commission further considered the following efforts voluntarily undertaken by Franklin:

Franklin shall use its best efforts (i) to cause all other registered investment adviser subsidiaries of Franklin Resources, Inc. to perform the undertakings in Section IV.B. and Sections IV.E. through IV.I. below; (ii) to cause Franklin Resources, Inc. and its subsidiaries to comply with the excess recovery undertaking in Section IV.D. below; and (iii) to cause Franklin Resources, Inc. and its subsidiaries to provide such cooperation as may be needed to facilitate the performance of the undertakings in Section IV. below.

IV.

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

Accordingly, it is hereby ORDERED:

A. Pursuant to Section 203(k) of the Advisers Act and Section 9(f) of the Investment Company Act, Respondent Franklin shall cease and desist from committing or causing any violations and any future violations of Sections 206(1) and 206(2) of the Advisers Act and Section 34(b) of the Investment Company Act.

Undertakings

B. General Compliance. Franklin shall comply with the following undertakings:

1. Franklin shall at its own expense establish and staff a full-time senior-level position whose responsibilities shall include compliance matters related to conflicts of interests. This officer will report directly to the chief compliance officer of Franklin.

2. Franklin shall require that its chief compliance officer or a member of his or her staff review compliance with the policies and procedures established to address compliance issues under the Investment Advisers Act and Investment Company Act and that any violations be reported to the President of Franklin and the independent trustees and directors of the FT funds.

3. Franklin shall require its chief compliance officer to report to the independent trustees and directors of the FT funds any breach of fiduciary duty and/or the federal securities laws to the extent that such breaches relate to fund business of which he or she becomes aware in the course of carrying out his or her duties, with such frequency as the independent trustees and directors of the FT funds may instruct, and in any event at least quarterly, provided however that any material breach (i.e., any breach that would be important, qualitatively or quantitatively, to a reasonable director) shall be reported promptly.

4. Franklin shall establish a corporate ombudsman to whom Franklin employees may convey concerns about Franklin business matters that they believe implicate matters of ethics or questionable practices. Franklin shall establish procedures to investigate matters brought to the attention of the ombudsman, and these procedures shall be presented for review and approval by the independent trustees and directors of the FT funds. Franklin shall also review matters to the extent relating to fund business brought to the attention of the ombudsman, along with any resolution of such matters, with the independent trustees and directors of the FT funds with such frequency as the independent trustees and directors of such funds may instruct.

C. Distribution of Disgorgement and Penalty. Franklin shall also comply with the following undertakings:

1. Franklin shall retain, within 30 days of the date of entry of the Order, the services of an Independent Distribution Consultant not unacceptable to the staff of the Commission and acceptable to the independent trustees and directors of the FT funds. The Independent Distribution Consultant's compensation and expenses shall be borne exclusively by Franklin. Franklin shall require the Independent Distribution Consultant to develop a Distribution Plan for the distribution of the total disgorgement and penalty ordered in paragraph IV.J. below to the shareholders of FT mutual funds managed by Franklin or its affiliates to compensate fairly and proportionately the funds' shareholders for market timing trading activity during the relevant period, according to a methodology developed in consultation with Franklin and the independent trustees and directors of the affected FT funds and acceptable to the staff of the Commission. Franklin shall cooperate fully with the Independent Distribution Consultant and shall provide the Independent Distribution Consultant with access to its files, books, records, and personnel as reasonably requested for the review.

2. To require the Independent Distribution Consultant to submit to Franklin and the staff of the Commission the Distribution Plan no more than 120 days after the date of entry of the Order.

3. With respect to any determination or calculation of the Independent Distribution Consultant with which Franklin or the staff of the Commission does not agree, such parties shall attempt in good faith to reach an agreement within 150 days of the date of entry of the Order. In the event that Franklin and the staff of the Commission are unable to agree on an alternative determination or calculation, within 180 days of the date of entry of the Order, they shall each advise, in writing, the Independent Distribution Consultant of any determination or calculation from the Distribution Plan that each considers to be inappropriate and state in writing the reasons for considering such determination or calculation inappropriate.

4. Within 195 days of the date of entry of this Order, Franklin shall require that the Independent Distribution Consultant submit the Distribution Plan for the administration and distribution of disgorgement and penalty funds pursuant to the Commission's Rules of Practice. Following a Commission order approving a final plan of disgorgement, as provided in the Rules of Practice, Franklin shall require that the Independent Distribution Consultant, with Franklin, take all necessary and appropriate steps to administer the final plan for distribution of disgorgement and penalty funds.

5. To require the Independent Distribution Consultant to enter into an agreement that provides that, for the period of the engagement and for a period of two years from completion of the engagement, the Independent Distribution Consultant shall not enter into any employment, consultant, attorney-client, auditing or other professional relationship with Franklin or Franklin Resources, Inc., or any of their present or former subsidiaries, affiliates, trustees, directors, officers, employees, or agents acting in their capacity as such. The agreement will also provide that the Independent Distribution Consultant will require that any firm with which the Independent Distribution Consultant is affiliated or of which he or she is a member, and any person engaged to assist the Independent Distribution Consultant in performance of his or her duties under the Order shall not, without prior written consent of the independent trustees and directors of the FT funds and the staff of the Commission, enter into any employment, consultant, attorney-client, auditing or other professional relationship with Franklin or Franklin Resources, Inc. or any of their present or former subsidiaries, affiliates, trustees, directors, officers, employees, or agents acting in their capacity as such for the period of the engagement and for a period of two years after the engagement.

D. Excess Recovery. Franklin shall also undertake to disgorge and pay to the Commission all amounts in excess of \$30 million that it obtains, through settlement, final judgment or otherwise, from individuals or entities alleged to have engaged in market timing in any of the FT funds. Such amounts shall be distributed pursuant to the Distribution Plan referenced in paragraph IV.C.1 above.

E. Periodic Compliance Review. Commencing in 2005, and at least once every other year thereafter, Franklin shall undergo a compliance review by a third party, who is not an interested person, as defined in the Investment Company Act, of Franklin. At the conclusion of the review, the third party shall issue a report of its findings and recommendations concerning Franklin's supervisory, compliance, and other policies and procedures designed to prevent and detect breaches of fiduciary duty and federal securities law violations by Franklin and its employees in connection with their duties and activities on behalf of and related to the FT funds. Each such report shall be promptly delivered to Franklin's chief compliance officer, the independent trustees and directors of the FT funds, and to the Compliance or Audit Committee of the board of trustees or directors of each FT fund.

F. Certification. No later than twenty-four months after the date of entry of the Order, the President of Franklin shall certify to the Commission in writing that Franklin has fully adopted and complied in all material respects with the undertakings set forth in this section IV or, in the event of material non-adoption or non-compliance, shall describe such material non-adoption and non-compliance.

G. Recordkeeping. Franklin shall preserve for a period not less than six years from the end of the fiscal year last used, the first two years in an easily accessible place, any record of Franklin's compliance with the undertakings set forth in this section IV.

H. Deadlines. For good cause shown, the Commission's staff may extend any of the procedural dates set forth above.

I. Other Obligations and Requirements. Nothing in this Order shall relieve Franklin of any other applicable legal obligation or requirement, including any rule adopted by the Commission subsequent to this Order.

Disgorgement and Civil Money Penalties

J. Franklin shall pay disgorgement in the amount of \$30 million (“Disgorgement”) and civil money penalties in the amount of \$20 million (“Penalties”), for a total payment of \$50 million.

K. There shall be, pursuant to Section 308(a) of the Sarbanes-Oxley Act of 2002, a Fair Fund established for the funds described in Section IV.J. Regardless of whether any such Fair Fund distribution is made, 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, Franklin agrees that it shall not, in any Related Investor Action, benefit from any offset or reduction of any investor’s claim by the amount of any Fair Fund distribution to such investor in this proceeding that is proportionately attributable to the civil penalty paid by Franklin (“Franklin Penalty Offset”). If the court in any Related Investor Action grants such an offset or reduction, Franklin agrees that it shall, within 30 days after entry of a final order granting the offset or reduction, notify the Commission’s counsel in this action and pay the amount of the Franklin Penalty Offset to the United States Treasury or to a Fair Fund, as the Commission directs. 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 against Franklin in this proceeding. For purposes of this paragraph, a “Related Investor Action” means a private damages action brought against Franklin by or on behalf of one or more investors based on substantially the same facts as those set forth in the Order.

L. Pursuant to an escrow agreement not unacceptable to the staff of the Commission, Franklin shall, within 20 days of the entry of this Order, pay the Disgorgement and Penalties into an escrow account. The escrow agreement shall, among other things: (1) require that all funds in escrow be invested in short-term U.S. Treasury securities with maturities not to exceed six months; (2) name an escrow agent who shall be appropriately bonded; and (3) provide that

escrowed funds be disbursed only pursuant to an order of the Commission. Franklin shall be responsible for all costs associated with the escrow agreement.

Censure

M. Pursuant to Section 203(e) of the Advisers Act, that Franklin be censured.

By the Commission.

Jonathan G. Katz
Secretary