

SECURITIES AND EXCHANGE COMMISSION
Washington, D.C.

SECURITIES EXCHANGE ACT OF 1934
Release No. 102699 / March 20, 2025

Admin. Proc. File No. 3-21000

In the Matter of

THE MICHAEL JAMES FERGUSON JR.
FOREIGN PRIVATE TRUST

ORDER REQUESTING ADDITIONAL BRIEFING AND MATERIALS FROM THE
PARTIES

On August 25, 2022, the Securities and Exchange Commission issued an order instituting proceedings (“OIP”) against the Michael James Ferguson Jr. Foreign Private Trust (the “Trust”) under Section 17A(c) of the Securities Exchange Act of 1934.¹ The Division of Enforcement subsequently filed a motion requesting that the Trust be deemed to be in default and its registration as a transfer agent be revoked. In requesting that relief, the Division relied on only the allegations of the OIP, which the Commission may deem true if it deems the Trust to be in default.²

In considering whether the public interest supports the revocation of a transfer agent’s registration the Commission considers, among other things, the egregiousness of the respondent’s actions, the isolated or recurrent nature of the infraction, and the degree of scienter involved.³ Because the OIP contains few specifics about the Trust’s alleged conduct—including as to the nature of any communications between the Trust and the Commission—and the district court action on which this proceeding is predicated was resolved by a default judgment, it appears that the Commission would benefit from supplementation of the record and additional briefing to assist its analysis of the public interest.⁴

¹ *Michael James Ferguson Jr. Foreign Private Tr.*, Exchange Act Release No. 95600, 2022 WL 3703815 (Aug. 25, 2022).

² Rule of Practice 155(a), 17 C.F.R. § 201.155(a).

³ *See The Edward Walker Benifield Trust*, Exchange Act Release No. 99271, 2024 WL 68230, at *5 (Jan. 4, 2024) (listing public interest factors).

⁴ *See, e.g., Don Warner Reinhard*, Exchange Act Release No. 61506, 2010 WL 421305, at *4 (Feb. 4, 2010) (finding that collateral estoppel did not apply as to allegations in complaint in injunctive proceeding resolved by default because “none of the issues [wa]s actually litigated” (citation omitted)).

Accordingly, it is ORDERED that the Division of Enforcement shall submit, as it deems necessary, any additional evidentiary materials, including any declarations and exhibits concerning the Trust's conduct from the district court action underlying this proceeding, that are relevant to its motion and the determination of the public interest by April 17, 2025, as well as a brief not to exceed 5,000 words, explaining the relevance of those materials to its request and the public interest. The Division's brief should discuss relevant authority relating to the legal basis for and the appropriateness of the requested sanctions and include evidentiary support sufficient to make an individualized assessment of whether those sanctions are in the public interest.

It is further ORDERED that the Trust may file a brief by May 15, 2025, not to exceed 5,000 words, addressing the same matters to be addressed by the Division. The Trust's brief should also address why it has failed to file an answer or to otherwise defend this proceeding, and why the Commission should not find it in default as a result. The Trust shall also include a proposed answer to be accepted if the Commission does not enter a default against it. The Trust is reminded that when a party defaults, the allegations of the OIP may be deemed true and the Commission may determine the proceeding against that party upon consideration of the record without holding a public hearing.⁵ If the Trust files a response to this order, the Division may file a reply within 14 days after its service.

⁵ Rules of Practice 155, 180, 17 C.F.R. §§ 201.155, .180.

The parties' attention is directed to the e-filing requirements in the Rules of Practice.⁶ We also remind the parties that any document filed with the Commission must be served upon all participants in the proceeding and be accompanied by a certificate of service.⁷

For the Commission, by the Office of the General Counsel, pursuant to delegated authority.

Vanessa A. Countryman
Secretary

⁶ See Rules of Practice 151, 152(a), 17 C.F.R. §§ 201.151, .152(a) (providing procedure for filing papers with the Commission and mandating electronic filing in the form and manner posted on the Commission's website); *Instructions for Electronic Filing and Service of Documents in SEC Administrative Proceedings and Technical Specifications*, <https://www.sec.gov/efapdocs/instructions.pdf>. Parties generally also must certify that they have redacted or omitted sensitive personal information from any filing. Rule of Practice 151(e), 17 C.F.R. § 201.151(e).

⁷ See Rule of Practice 150, 17 C.F.R. § 201.150 (generally requiring parties to serve each other with their filings); Rule of Practice 151(d), 17 C.F.R. § 201.151(d) ("Papers filed with the Commission . . . shall be accompanied by a certificate stating the name of the person or persons served, the date of service, the method of service, and the mailing address or email address to which service was made, if not made in person.").