UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 88295 / February 27, 2020

INVESTMENT ADVISERS ACT OF 1940
Release No. 5451 / February 27, 2020

ADMINISTRATIVE PROCEEDING
File No. 3-19714

In the Matter of

WELLS FARGO CLEARING SERVICES, LLC, AND

WELLS FARGO ADVISORS FINANCIAL NETWORK, LLC,

Respondents.

ORDER INSTITUTING ADMINISTRATIVE AND CEASE-AND-DESIST PROCEEDINGS, PURSUANT TO SECTION 15(b)(4) OF THE SECURITIES EXCHANGE ACT OF 1934 AND 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 Section 15(b)(4) of the Securities Exchange Act of 1934 ("Exchange Act") and Sections 203(e) and 203(k) of the Investment Advisers Act of 1940 ("Advisers Act") against Wells Fargo Clearing Services, LLC ("Wells Fargo Clearing") and Wells Fargo Advisors Financial Network, LLC ("Wells Fargo FiNet") (collectively, the "Respondents" or "Wells Fargo").

II.

In anticipation of the institution of these proceedings, Respondents have submitted Offers of Settlement (the "Offer") that 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 them and the subject matter of these proceedings, which are admitted, Respondents consent to the entry of this Order Instituting Administrative And Cease-and-Desist Proceedings Pursuant to Section 15(b)(4) of the Securities Exchange Act of 1934 and 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 Respondents' Offers, the Commission finds that:

Summary

From April 2012 through September 2019, Wells Fargo recommended that many retail investment advisory clients and brokerage customers (collectively, "clients") buy and hold single-inverse exchange-traded funds ("single-inverse ETFs") without having adequate compliance policies and procedures and without providing financial advisors proper training and supervision of single-inverse ETFs. As a result, certain investment adviser representatives and registered representatives (referred to by Wells Fargo as "financial advisors") made unsuitable recommendations to certain clients.

Single-inverse ETFs are complex financial instruments that seek investment results that are the opposite of the performance of an index for a stated trading period, typically a single day. When held longer than a day, particularly in volatile markets, investors may experience large and unexpected losses. As disclosed in the prospectuses for single-inverse ETFs, when held for longer than a day, single-inverse ETFs will lose money when the level of the index is flat. Put differently, even if the index performance is zero percent, the single-inverse ETF based on that index will lose money. The prospectuses further disclose that single-inverse ETFs could lose money even if the level of the index falls, and warn that the products may not be suitable for all investors and should be used only by knowledgeable investors who understand the risks. The prospectuses also state that investments in single-inverse ETFs should be actively monitored as frequently as daily.

Wells Fargo recommended that certain retail clients buy and hold, in many cases for months or years, single-inverse ETFs with daily reset features, including in retirement accounts. Some of these clients had little or no relevant investing experience and had been identified to Wells Fargo as clients with moderate or conservative risk tolerances. Moreover, some of these clients did not fully understand the risk of losses when holding these inverse ETFs long term and were not aware of the need to, and therefore did not, actively monitor the positions. Similarly, some Wells Fargo financial advisors who recommended single-inverse ETFs also did not adequately understand the products or properly monitor the positions. During the relevant period, the clients collectively sustained millions of dollars of losses in the product by holding the positions.

Wells Fargo was previously sanctioned by FINRA for similar conduct occurring prior to July 2009. In connection with Wells Fargo's settlement of that action in 2012, Wells Fargo publicly stated it had enhanced its policies and procedures and had appropriate supervisory processes and training to meet its regulatory responsibilities and clients' investment needs. However, Wells Fargo's policies and procedures relating to single-inverse ETFs, which applied to both advisory and brokerage accounts, were not reasonably designed to prevent and detect unsuitable recommendations of these complex products to buy and hold retail investors. For example, Wells Fargo did not require training on these products for its financial advisors and supervisors, or take other reasonable steps to educate financial advisors so they sufficiently understood the products to recommend them to clients. Wells Fargo did not establish procedures for supervisors so they could review single-inverse ETF recommendations and monitor positions over time. Wells Fargo also failed to adequately implement the policies and procedures it had in place. Wells Fargo's misconduct continued through September 2019.

Wells Fargo violated Section 206(4) of the Advisers Act and Rule 206(4)-7 thereunder by failing to adopt and implement policies and procedures reasonably designed to prevent unsuitable recommendations in violation of the Advisers Act. Because of Wells Fargo's inadequate training, compliance policies and procedures, and supervision, certain Wells Fargo financial advisors made unsuitable recommendations to their clients to buy and hold single-inverse ETFs in violation of Section 17(a)(3) of the Securities Act of 1933 ("Securities Act"). Accordingly, pursuant to Advisers Act Section 203(e)(6) and Exchange Act Section 15(b)(4)(E), Wells Fargo failed reasonably to supervise its financial advisors with a view to preventing the financial advisors' violations of the antifraud provision.

Respondents

1. **Wells Fargo Clearing Services, LLC ("Wells Fargo Clearing")**, formerly known as Wells Fargo Advisors, LLC, was incorporated in Delaware and is headquartered in St. Louis, Missouri. Wells Fargo Clearing is a dually registered investment adviser and broker-dealer.

2. **Wells Fargo Advisors Financial Network, LLC ("Wells Fargo FiNet")**, an affiliate of Wells Fargo Clearing, was incorporated in Delaware and is headquartered in St, Louis, Missouri. Wells Fargo FiNet is a dually registered investment adviser and broker-dealer.

Facts

Wells Fargo Knew About the Risks of Single-Inverse ETFs for Buy and Hold Retail Investors

3. In June 2009, Wells Fargo received FINRA Regulatory Notice 09-31 (the "Notice"), reminding securities firms of their sales practice obligations in connection with single-inverse and other non-traditional ETFs. The notice stated:

> In particular, recommendations to customers must be suitable and based on a full understanding of the terms and features of the product recommended . . . and firms must have adequate supervisory procedures in place to ensure that these obligations are met.

4. The notice also stated that most "inverse ETFs 'reset' daily, meaning that they are designed to achieve their stated objectives on a daily basis. Due to the effect of compounding, their performance over longer periods of time can differ significantly from the performance (or inverse of the performance) of their underlying index or benchmark during the same period of time." The notice therefore cautioned, "inverse and leveraged ETFs typically are not suitable for retail clients who plan to hold them for more than one trading session, particularly in volatile markets." The notice advised firms to establish an appropriate supervisory system, and train registered persons on these products and the factors that would make such products suitable or unsuitable for certain investors.

5. Wells Fargo was aware of an August 2009 joint alert from FINRA and SEC staff highlighting the risk associated with holding non-traditional ETFs, including single-inverse ETFs, for weeks, months or years.

6. Wells Fargo received prospectuses for the single-inverse ETFs that it recommended. The prospectuses warn that over periods longer than a day, the results of single-inverse ETFs very likely will diverge from the inverse of the underlying index. According to the prospectuses for almost all of the single-inverse ETFs that Wells Fargo recommended, when the products are held longer than a day, single-inverse ETFs will lose money when the level of the index is flat and it is possible these products will lose money even if the level of the index falls. This is a result of daily rebalancing, the underlying index's volatility and the effects of compounding.

7. In May 2012, Wells Fargo Advisors, LLC, Wells Fargo FiNet, and Wells Fargo Investments, LLC, were sanctioned by FINRA and paid over $2.7 million in fines and restitution for conduct that occurred before July 2009. FINRA disciplined these Wells Fargo entities for (1) failing to establish a reasonable supervisory system and written procedures to monitor the sale of non-traditional ETFs; (2) failing to provide adequate formal training and guidance to registered representatives and supervisors regarding non-traditional ETFs; and (3) certain Wells Fargo registered representatives making unsuitable recommendations of non-traditional ETFs to certain customers with conservative risk tolerances.

8. At the time of the settlement with FINRA, Wells Fargo publicly asserted it "has enhanced its policies and procedures and is confident that it has appropriate supervisory processes and training to meet our regulatory responsibilities and clients' investment needs." However, significant shortcomings remained with its policies and procedures relating to single-inverse ETFs.

9. From 2009 forward, Wells Fargo's lead exchange-traded product ("ETP") research analyst provided internal guidance that the single-inverse ETFs could perform worse than the inverse of the index they were tracking, when held long term. For instance, in January 2016, in response to financial advisors' questions about the performance of a single-inverse ETF, the analyst noted:

> [S]olely based on it[s] 2015 performance…one may have (incorrectly) guessed that [the single-inverse ETF] was a triple-inverse geared ETF. ☹ Again, high volatility is toxic for geared ETPs, even for a non-levered inverse ETF.

At various points, the analyst also cautioned that single-inverse ETFs should be used for short term holding periods, were not intended for portfolio protection against an eventual downturn in the market and were misunderstood by investors. Wells Fargo, however, did not convey this guidance to all financial advisors recommending single-inverse ETFs to clients.

<u>Wells Fargo's Policies and Procedures Relating to Non-Traditional ETFs</u>

10. In August 2009, Wells Fargo adopted compliance policies and procedures related to non-traditional ETFs, including single-inverse ETFs, for financial advisors. These policies and procedures applied to Wells Fargo's discretionary and non-discretionary investment advisory

accounts and brokerage accounts. On April 13, 2012, Wells Fargo updated its compliance policies and procedures to include certain volatility and other ETPs.

11. Wells Fargo's 2012 policies and procedures provided that single-inverse ETFs are speculative trading vehicles and generally not suitable for investors who intend to hold them as long term positions. Wells Fargo's 2012 policies and procedures stated that non-traditional ETFs that reset daily typically should not be held more than one trading session or as a long-term investment. The policies and procedures subjected single-inverse ETFs to additional suitability requirements. Specifically, the policies and procedures required financial advisors to determine the suitability of the product for the client considering, among other things:

- The characteristics and risks of non-traditional ETFs;
- The client's investment experience and familiarity with complex investment products;
- The client's financial ability and willingness to absorb potentially significant losses; and
- The client's ability and intent to actively monitor and manage the investment on a daily basis.

12. The 2012 policies and procedures required Wells Fargo financial advisors to have a reasonable belief that the client is capable of understanding the complexities of the product, including the consequences of seeking periodic inverse investment results, and that the single-inverse ETFs performance may not track the underlying index over periods longer than a day.

13. The 2012 policies and procedures further provided that single-inverse ETFs may be appropriate as part of a sophisticated investment strategy, but should be closely monitored by the financial advisor.

14. In 2012, Wells Fargo received information indicating that its policies and procedures were not as robust as those of certain other large brokerage and investment advisory firms, which had procedures such as: reviewing products held long term; requiring financial advisors to complete training; and providing risk disclosure notices to investors.

Wells Fargo Failed to Adopt and Implement Reasonably Designed Policies and Procedures

15. Wells Fargo's written policies and procedures were not reasonably designed to prevent and detect unsuitable recommendations of single-inverse ETFs.

16. Wells Fargo did not require training for its financial advisors and supervisors about single-inverse ETFs and Wells Fargo's related policies and procedures nor did it adopt any other process to sufficiently educate them about the products and their risks.

17. During the period from April 13, 2012 through September 30, 2019 ("Relevant Period") certain Wells Fargo financial advisors who recommended these products to clients were not

familiar with Wells Fargo's single-inverse ETF policies and procedures or warnings in the prospectuses, and did not fully understand the risk that when these products are held long term, the positions may incur unexpected losses and perform worse than the inverse of the underlying index.

18. In addition, a regional compliance supervisor whose job was to review securities purchases for suitability, was not familiar with Wells Fargo's policies and procedures relating to single-inverse ETFs or the risks of holding single-inverse ETFs long term.

19. Wells Fargo was on notice that some of its financial advisors did not understand single-inverse ETFs and were not following the firm's policies and procedures relating to these products. For example, in the fall of 2017, a Wells Fargo branch examiner raised concerns to Wells Fargo managers responsible for supervision and compliance about a financial advisor who recommended certain of his clients hold single-inverse ETFs for up to five years.

20. Wells Fargo had additional supervisory policies and procedures for compliance personnel and branch managers. However, Wells Fargo did not adopt any supervisory policies and procedures for these groups specifically addressing the suitability of single-inverse ETFs, and did not adopt a procedure to assess whether financial advisors followed Wells Fargo's existing single-inverse ETF policies. In addition, Wells Fargo had no product specific alerts to trigger reviews of accounts that held single-inverse ETF positions long term.

21. Wells Fargo also had widespread failures to implement its existing compliance policies and procedures for financial advisors.

22. For instance, Wells Fargo systematically failed to implement its policy that non-traditional ETFs that reset daily typically should not be held longer than one trading session. During the Relevant Period, Wells Fargo recommended to over 40,000 retail non-discretionary and discretionary advisory accounts and more than 2,000 retail brokerage accounts that they buy single-inverse ETFs with daily resets, which were held long term. Many of these single-inverse ETF positions were held months or years in retirement accounts with long-term time horizons.

23. Wells Fargo failed to adequately implement its policy requiring that financial advisors consider clients' financial ability and willingness to absorb potentially significant losses. A number of clients who bought and held these products based on Wells Fargo's recommendations had modest reported income and net worth. About 2,900 non-discretionary advisory accounts and about 2,000 brokerage accounts that were recommended to buy these products during the Relevant Period and held them long term, had identified to Wells Fargo conservative or moderate risk tolerances.

24. Wells Fargo failed to adequately implement its policy requiring financial advisors to closely monitor single-inverse ETF positions. Wells Fargo did not provide financial advisors with guidance on how to monitor the positions, nor did Wells Fargo separately have procedures to conduct this monitoring itself. Some financial advisors looked daily at the price of the products rather than at the actual positions in their clients' accounts. Because these products often do not return the inverse of the underlying index for periods longer than a day, the financial advisors' method of review was not sufficient to determine how the positions were performing over time.

25. Certain Wells Fargo financial advisors failed to consider clients' investment experience and familiarity with complex investment products. These financial advisors advised a number of clients to buy and hold single-inverse ETFs, when they knew the clients were not sophisticated traders and did not understand single-inverse ETFs or the risks of holding the products for longer periods.

Unsuitable Recommendations to Certain Advisory Clients and Brokerage Customers

26. Due to Wells Fargo's inadequate training, compliance policies and procedures, and supervision, in the offer and sale of single-inverse ETFs, certain financial advisors made unsuitable recommendations to buy and hold single-inverse ETFs to certain retail clients with non-discretionary advisory accounts. The clients, some of whom were senior citizens and retirees with limited incomes and net worth, had conservative or moderate risk tolerances. The financial advisors knew the clients were not knowledgeable about these complex products and were not routinely monitoring the positions. The recommendations were inconsistent with the products' prospectuses, which warned that single-inverse ETFs are intended to achieve results only on a daily basis, should only be purchased by knowledgeable investors who understand the risks of seeking daily inverse investment results and who actively monitor and manage their investments as frequently as daily. The financial advisors also did not understand the risks of holding these products long term, did not adequately explain the risks to their clients, and were not themselves closely monitoring the positions. As a result of the financial advisors' recommendations, certain advisory clients held the products in their accounts for months or years and suffered losses on these positions.

27. Without adequate training, compliance policies and procedures, and supervision, in the offer and sale of single-inverse ETFs, certain financial advisors made unsuitable recommendations to buy and hold these securities to certain brokerage customers in light of their investment objectives, risk tolerance and circumstances. These customers, some of whom had modest incomes and net worth, had conservative or moderate risk tolerances and did not have prior investing experience with complex products. These financial advisors also did not have a reasonable basis to recommend customers buy and hold single-inverse ETFs. The financial advisors did not investigate or understand key risks of holding single-inverse ETF positions and how investment results over periods longer than a day can diverge from the inverse performance of the underlying index. For example, they were unaware of times when both the index and the single-inverse ETF went down in value, and when the single-inverse ETF performed worse than the inverse of the index it was tracking. As a result of the financial advisors' recommendations, certain brokerage customers held the products in their accounts for months or years and suffered losses on these positions.

Wells Fargo's Failure to Supervise

28. Wells Fargo's compliance and supervisory policies and procedures were not reasonably designed and implemented to provide effective training and oversight of its financial advisors' recommendations that clients buy and hold single-inverse ETFs. Wells Fargo failed to adequately train and educate its financial advisors about single-inverse ETFs so that they sufficiently understood the products and their risks to make suitable recommendations. In addition, Wells

Fargo failed to implement its policy requiring that financial advisors closely monitor single-inverse ETF positions, nor did Wells Fargo create alerts or other procedures to conduct monitoring and surveillance. Wells Fargo failed to test whether its financial advisors were following its single-inverse ETF compliance policies and procedures and whether the recommendations made by its financial advisors were suitable. These failures hindered Wells Fargo's ability to prevent and detect unsuitable recommendations.

Violations and Supervisory Failures

29. Wells Fargo Clearing and Wells Fargo FiNet willfully violated Section 206(4) of the Advisers Act and Rule 206(4)-7 thereunder, which require registered investment advisers to adopt and implement written policies and procedures reasonably designed to prevent violations of the Advisers Act and rules thereunder by the adviser and its supervised persons. Wells Fargo Clearing and Wells Fargo FiNet willfully violated these provisions by failing to adopt written compliance policies and procedures reasonably designed to prevent unsuitable recommendations of single-inverse ETFs, and failing to adequately implement its existing written policies and procedures.

30. Under Section 203(e)(6) of the Advisers Act, investment advisers are responsible for supervising, with a view to preventing violations of the federal securities laws, persons subject to their supervision. Wells Fargo Clearing and Wells Fargo FiNet were responsible for supervising their financial advisors in making suitable recommendations to advisory clients. Wells Fargo Clearing and Wells Fargo FiNet failed to establish procedures, and a system for applying such procedures, which would reasonably be expected to prevent and detect such violations. Wells Fargo Clearing and Wells Fargo FiNet failed reasonably to fulfill their supervisory responsibilities within the meaning of Section 203(e)(6) of the Advisers Act, with a view to preventing its financial advisors' unsuitable recommendations in violation of the antifraud provision, Section 17(a)(3) of the Securities Act, as described above.

31. Under Section 15(b)(4)(E) of the Exchange Act, broker-dealers are responsible for supervising, with a view to preventing violations of the federal securities laws, persons subject to their supervision. Wells Fargo Clearing and Wells Fargo FiNet were responsible for supervising their financial advisors in making suitable recommendations to brokerage customers. Wells Fargo Clearing and Wells Fargo FiNet failed to establish procedures, and a system for applying such procedures, which would reasonably be expected to prevent and detect such violations. Wells Fargo Clearing and Wells Fargo FiNet failed reasonably to fulfill their supervisory responsibilities within the meaning of Section 15(b)(4)(E) of the Exchange Act, with a view to preventing its financial advisors' unsuitable recommendations in violation of the antifraud provision, Section 17(a)(3) of the Securities Act, as described above.

IV.

In view of the foregoing, the Commission deems it appropriate, in the public interest, to impose the sanctions agreed to in Respondents Wells Fargo Clearing's and Wells Fargo FiNet's Offers.

Accordingly, pursuant to Section 15(b)(4) of the Exchange Act and Sections 203(e) and 203(k) of the Advisers Act, it is hereby ORDERED that:

A. Wells Fargo Clearing shall cease and desist from committing or causing any violations and any future violations of Section 206(4) of the Advisers Act and Rule 206(4)-7 promulgated thereunder.

B. Wells Fargo FiNet shall cease and desist from committing or causing any violations and any future violations of Section 206(4) of the Advisers Act and Rule 206(4)-7 promulgated thereunder.

C. Respondents Wells Fargo Clearing and Wells Fargo FiNet are censured.

D. Respondents shall pay a civil monetary penalty in the amount of $35,000,000, on a joint and several basis, consistent with the provisions of this Subsection IV.

E. At the time of any payment from the Fair Fund to a former or current client as described below in paragraph I, Wells Fargo shall provide to these clients a letter from the SEC describing the nature of the payment and a copy of this order.

F. Pursuant to Section 308(a) of the Sarbanes-Oxley Act of 2002, a Fair Fund is created for the penalties referenced in paragraph D above. 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, Respondents agree that in any Related Investor Action, they shall not argue that they are entitled to, nor shall they benefit by, offset or reduction of any award of compensatory damages by the amount of any part of Respondents' payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, Respondents agree that they 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 Respondents 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.

G. Within 10 days of the issuance of this Order, Respondents shall deposit the penalty amount of $35,000,000 (the "Distribution Fund") into an escrow account at a financial institution not unacceptable to the Commission staff and Respondents shall provide the Commission staff with evidence of such deposit in a form acceptable to the Commission staff. 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) or 31 U.S.C. § 3717.

H. Respondents shall be responsible for administering the Distribution Fund and may hire a professional to assist it in the administration of the distribution. The costs and expenses of administering the Distribution Fund, including any such professional services, shall be borne by Respondents and shall not be paid out of the Distribution Fund.

I. Respondents shall pay from the Distribution Fund to former and current clients with non-discretionary investment advisory and brokerage accounts with conservative or moderate risk tolerances the amount of net realized or unrealized losses from all purchases during the Relevant Period of single-inverse ETFs held longer than 30 days. Unrealized losses shall be calculated using either i) the closing price of the single-inverse ETF as of September 30, 2019 if the position was still held at Wells Fargo as of that date, or ii) the closing price as of the date of position transfer or account closure, if earlier. No portion of the Distribution Fund shall be paid to any account in which Respondents, or any of their current or former officers, directors, employees, contractors, or financial advisors who recommended single-inverse ETFs, or their family members, have a financial interest.

J. Respondents shall, within 90 days from the date of this Order, submit a proposed disbursement calculation (the "Calculation") to the Commission staff for review and approval. At or around the time of submission of the proposed Calculation to the staff, Respondents shall make themselves available, or shall cause any third-parties or professionals retained by Respondents to assist in formulating the methodology for their 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 Calculations and its implementation, and to provide the staff with an opportunity to ask questions. Respondents also shall provide 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 Respondents' proposed Calculation or any of their information or supporting documentation, Respondents shall submit a revised Calculation for the review and approval of the Commission staff or additional information or supporting documentation within 10 days of the date that the Commission staff notifies Respondents of the objection. The revised Calculation shall be subject to all of the provisions of this Subsection IV.

K. After the Calculation has been approved by the Commission staff, Respondents shall submit a payment file (the "Payment File") for review and acceptance by the Commission staff demonstrating the application of the methodology to each harmed investor. The Payment File should identify, at a minimum, (i) the name of each affected harmed investor; (ii) the corresponding account number; (iii) the exact amount of the payment to be made; and (iv) the amount of any *de minimis* threshold to be applied.

L. Respondents shall complete the disbursement of all amounts payable to affected accounts within 90 days of the date that the Commission staff accepts the Payment File, unless such time period is extended as provided in Paragraph P. of this Subsection IV.

M. If Respondents are unable to distribute or return any portion of the Distribution Fund for any reason, including an inability to locate an affected investor or a beneficial owner of an affected investor or any factors beyond Respondents' control, Respondents 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 Securities Exchange Act of 1934 when the distribution of funds is complete and before the final accounting provided for in Paragraph O. of this Subsection IV is submitted to the Commission staff. Payment must be made in one of the following ways:

1. Respondents may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;

2. Respondents 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. Respondents 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 Wells Fargo Clearing and Wells Fargo FiNet as Respondents 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 Lisa Deitch, Division of Enforcement, Securities and Exchange Commission, 100 F St., NE, Washington, DC 20549-5010.

N. A Distribution 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. Respondents shall be responsible for any and all tax compliance responsibilities associated with the Distribution Fund, including but not limited to tax obligations resulting from the Distribution Fund's status as a QSF and the Foreign Account Tax Compliance Act (FATCA), and may retain any professional services necessary. The costs and expenses of tax compliance, including any such professional services, shall be borne by Respondents and shall not be paid out of the Distribution Fund.

O. Within 150 days after Respondents complete the disbursement of all amounts payable to affected investors, Respondents shall return all undisbursed funds, including interest, if any, to the Commission. Respondents shall then submit to the Commission staff a final accounting and certification of the disposition of the Distribution Fund for Commission approval, which final accounting and certification shall include, but not be limited to: (i) the amount paid to each payee, with the reasonable interest amount, if any, reported separately; (ii) the date of each payment; (iii) the check number or other identifier of the money transferred; (iv) the amount of any returned payment and the date received; (v) a description of the efforts to locate a prospective payee whose payment was returned or to whom payment was not made for any reason; (vi) the total amount, if any, to be forwarded to the Commission for transfer to the United States Treasury; and (vii) an affirmation that Respondents have made payments from the Distribution Fund to affected investors in accordance with the Calculation approved by the Commission staff. Respondents shall submit proof and supporting documentation of such payment (whether in the form of electronic payments or cancelled checks) in a form acceptable to the Commission staff under a cover letter that identifies Respondents and the file number of these proceedings to Lisa Deitch, Division of Enforcement, Securities and Exchange Commission, 100 F St., NE, Washington, DC 20549-5010. Respondents 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.

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

By the Commission.

Vanessa A. Countryman
Secretary