

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

**SECURITIES EXCHANGE ACT OF 1934**  
**Release No. 90453 / November 18, 2020**

**ADMINISTRATIVE PROCEEDING**  
**File No. 3-17978**

|                       |   |                                      |
|-----------------------|---|--------------------------------------|
| In the Matter of      | : |                                      |
|                       | : | <b>ORDER AUTHORIZING THE</b>         |
|                       | : | <b>TRANSFER TO THE U.S. TREASURY</b> |
|                       | : | <b>OF THE REMAINING FUNDS AND</b>    |
| Barclays Capital Inc. | : | <b>ANY FUNDS RETURNED TO THE</b>     |
|                       | : | <b>FAIR FUND IN THE FUTURE AND</b>   |
|                       | : | <b>TERMINATING THE FAIR FUND</b>     |
| Respondent.           | : |                                      |

On May 10, 2017, the United States Securities and Exchange Commission (“Commission”) issued an Order Instituting Administrative and Cease-and-Desist Proceedings Pursuant to Section 8A of the Securities Act of 1933, Section 15(b) 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”)<sup>1</sup> against Barclays Capital Inc. (“Respondent”). In the Order, the Commission found from September 2010 through December 2015, Barclays Capital, then a dually-registered investment adviser and broker-dealer, improperly overcharged certain advisory clients of its wealth and investment management business nearly \$50 million in advisory fees. First, from September 2010 through December 2014, Barclays Capital falsely represented to advisory clients that it was performing ongoing due diligence and monitoring of certain third-party managers who managed advisory clients’ assets using certain investment strategies, when Barclays was not performing such due diligence. As a result, Barclays improperly charged 2,050 client accounts approximately \$48 million in fees for these promised services. Second, from January 2011 through March 2015, Barclays charged 22,138 client accounts excess fees of approximately \$2 million. Additionally, from at least January 2010 through December 2015, Barclays disadvantaged certain retirement plan and charitable organization brokerage customers (“Eligible Customers”) by recommending and selling them more expensive mutual fund share classes when less expensive share classes were available, without disclosing that Barclays had a material conflict of interest, *i.e.*, that it would receive greater compensation from the Eligible Customers’ purchases of the more expensive share classes.

Barclays voluntarily undertook to make a payment of approximately \$3,504,285 (the “Remediation”), plus reasonable interest. Barclays also took responsibility for administering the payment of the Remediation to the affected advisory clients and brokerage customers.

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<sup>1</sup> Securities Act Rel. No. 10355 (May 10, 2017).

The Order further required Barclays to pay \$49,785,417 in disgorgement, \$13,752,242 in prejudgment interest, and a \$30 million civil monetary penalty. In the Order, the Commission created a Fair Fund (the “Fair Fund”), pursuant to Section 308(a) of the Sarbanes-Oxley Act of 2002, so the penalty, along with the disgorgement and prejudgment interest, could be distributed to investors harmed by Barclays’ conduct described in the Order. Pursuant to the Order, Respondent was responsible for administering the Fair Fund at its own expense.

Pursuant to the calculations specified in the Order, Barclays’ payment vendor, Epiq Systems, Inc. (“Epiq”), sent checks from the Fair Fund and for the Remediation to the relevant accountholders. Barclays distributed \$54,007,538.65 to 12,854 current and former advisory clients.<sup>2</sup> Pursuant to the Order, a *de minimis* threshold of \$10.00 was applied to distribution payments from the Fair Fund.<sup>3</sup>

Barclays made additional efforts to reach investors who did not cash checks including refreshing addresses and reissuing checks when needed.<sup>4</sup> Of the Remediation funds disbursed by Epiq, \$73,218.60 remains un-negotiated despite the Respondent’s efforts to increase the check negotiation rate. These funds were retained by the Respondent because the payments were part of a voluntary remediation and not ordered to be paid by the Commission.

The remaining \$42,847,123.63 in the Fair Fund consists un-negotiated checks, amounts from accounts below the *de minimis* threshold, payments to an internal Barclays account that were excluded by the Order, and monies paid pursuant to the Order that were not needed to fully compensate investors.

The Order requires that Respondent provide a final accounting to the Commission staff for submission to the Commission for approval. Upon approval of the final accounting, all remaining amounts in the Fair Fund, and any funds returned in the future, are to be sent to the U.S. Treasury. The final accounting has been submitted to the Commission for approval, as required by the Order, and is now approved.

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<sup>2</sup> Barclays also paid \$114,063.12 to the Internal Revenue Service in accordance with backup withholding provisions.

<sup>3</sup> A *de minimis* threshold of \$10.00 was required to obtain a distribution payment, with two exceptions. First, the *de minimis* threshold was not applied to retirement accounts, meaning that retirement accounts received compensation even if their investor harm was less than \$10.00. Second, with respect to the Remediation, Barclays “linked” accounts that were functionally the same but that had been converted to different account numbers during the Remediation period. Linking these accounts brought the Remediation amount above the *de minimis* threshold of \$10.00.

<sup>4</sup> Barclays’ efforts to locate former advisory clients included use of outside vendors and a variety of third-party databases, including Lexis Nexis and the United States Postal Service National Change of Address database.

Accordingly, it is ORDERED that:

- A. the remaining funds in the amount of \$42,847,123.63, and any funds returned to the Fair Fund in the future, shall be transferred to the U.S. Treasury, subject to Section 21F(g)(3) of the Securities Exchange Act of 1934 [15 U.S. Code § 78u-6(g)(3)]; and
- B. the Fair Fund is terminated.

By the Commission.

Vanessa A. Countryman  
Secretary