UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

INVESTMENT ADVISERS ACT OF 1940
Release No. 6188 / November 21, 2022

INVESTMENT COMPANY ACT OF 1940
Release No. 34756 / November 21, 2022

ADMINISTRATIVE PROCEEDING
File No. 3-21244

In the Matter of **LEGAL & GENERAL INVESTMENT MANAGEMENT AMERICA, 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 Legal & General Investment Management America, Inc. ("LGIMA" 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 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 Respondent's Offer, the Commission finds that:

Summary

1. From August 2017 through December 2020 (the "Relevant Period"), LGIMA, a registered investment adviser, effected 44,125 principal transactions between clients and LGIMA principal accounts without making the required client disclosures or obtaining the required client consents. During the same time period, LGIMA also effected 547 cross trades between certain of LGIMA's registered investment company ("RIC") clients and other LGIMA clients who were affiliated persons of those RICs or affiliated persons of an affiliated person of those RICs, without complying with the statutory provisions governing cross trades involving RICs. LGIMA's violations were caused in part by its failure to adopt and implement reasonably designed policies and procedures to prevent unlawful principal and cross trading effected, initially, by its trading personnel and, later, through an automated trade matching program. Based on this conduct, LGIMA violated Sections 206(3) and 206(4) of the Advisers Act and Rule 206(4)-7 thereunder, and caused violations of Sections 17(a)(1) and 17(a)(2) of the Investment Company Act and Rule 38a-1 thereunder.

Respondent

2. Legal & General Investment Management America, Inc. is a Chicago-based investment adviser indirectly owned by Legal & General Group, PLC, a publicly-traded, multi-national financial services and asset management company headquartered in the United Kingdom. LGIMA was founded in 2006 and has been registered with the Commission as an investment adviser since 2009. According to its Form ADV filed on October 7, 2022, LGIMA managed $287 billion in assets in 520 advisory client accounts on a discretionary basis.

Background

3. From August 2017 through December 2020, LGIMA effected 126,249 equity cross trades for client accounts in its passive equity index investment business. LGIMA did so by internally matching buy and sell orders across advisory client accounts or between an advisory client account and the account of an advisory client of an affiliate. After matching the orders, LGIMA sent them to a third-party broker with instructions to execute the trades against each other in exchange for reduced or no commissions.

4. Prior to May 2019, LGIMA used a manual process to effect these trades. LGIMA traders manually identified and matched buy and sell orders for the same equity security by searching through orders that portfolio managers for advisory client accounts and for advisory client accounts of affiliates had entered into an internal order management system for execution by third-party brokers. Due to the laborious process of manually matching orders, LGIMA did so infrequently during this time period.

5. In May 2019, LGIMA implemented the Efficient Netting Program (the "ENP"), an automated trade matching program that identified, matched, and aggregated buy and sell orders for the same equity security across advisory client accounts and advisory client accounts of affiliates. LGIMA clients did not pay commissions for matched trades effected through the ENP. According to LGIMA personnel, these commission savings were the sole purpose of the ENP. Unlike the process of manually matching trades, the ENP efficiently identified, matched, and aggregated potential trades for execution by third-party brokers, causing a sharp increase in cross trading by LGIMA upon the program's implementation.

6. Both prior to and during the use of the ENP, LGIMA traders did not identify or distinguish LGIMA principal accounts or certain RIC client accounts from other advisory client accounts when internally matching trades or entering trades into the ENP. In addition, the ENP did not identify or exclude those accounts from its processes. As a result, for each cross trade executed during the Relevant Period that involved an LGIMA principal account, LGIMA did not notify or obtain consent from its advisory clients that were on the other side of the trade. And for each cross trade executed during the Relevant Period that involved LGIMA RIC client accounts, LGIMA did not obtain an exemptive order from the Commission, nor did LGIMA inform those RIC clients that their orders were crossed with other LGIMA advisory client accounts.

Cross Trading Regulations and LGIMA's Policies

7. Section 206(3) of the Advisers Act prohibits principal transactions, which occur when an adviser, acting as principal for its own account, knowingly sells a security to or purchases a security from a client, unless the investment adviser provides written disclosure to, and obtains consent from, affected clients. At all relevant times, LGIMA's Cross Trading Policy noted the requirements of Section 206(3) and stated that "LGIMA does not engage in Principal Trades."

8. Sections 17(a)(1) and 17(a)(2) of the Investment Company Act prohibit any affiliated person of a RIC, or any affiliated person of such affiliated person, acting as principal, from knowingly selling a security to, or purchasing a security from, the investment company unless the person first obtains an exemptive order from the Commission pursuant to Section 17(b) of the Investment Company Act. The interpositioning of a dealer in these transactions does not relieve them from the prohibitions of Section 17(a). *See* Section 48(a) of the Investment Company Act; Exemption of Certain Purchase or Sale Transactions Between a Registered Investment Company and Certain Affiliated Persons Thereof, IC Rel. No. 11136, 1980 WL 29973, at *2 n.10 (Apr. 21, 1980) (the "17a-7 Release").

9. Rule 17a-7 under the Investment Company Act exempts from these prohibitions certain cross trades where the affiliation between a RIC and its trading counterparty arises solely because the two have a common investment adviser or investment advisers that are affiliated persons of each other, common directors, or common officers, provided that the cross trades are effected in accordance with Rule 17a-7. Rule 17a-7 requires, among other things, that cross trades be executed at the "independent current market price," which is defined in relevant part as "the last sale price with respect to such security reported in the consolidated transaction reporting system . . . ." If the adviser pays a brokerage commission, fee, or other remuneration in connection with the cross trade, the cross trade is not eligible for an exemption under Rule 17a-7. In addition, Rule 17a-7 requires that the board of directors of each RIC determine on at least a quarterly basis that all such transactions were effected in compliance with the RIC's respective Rule 17a-7 procedures. LGIMA's Cross Trading Policy acknowledged the requirements of Rule 17a-7 and stated that all cross trades executed on behalf of an LGIMA-advised RIC would comply with Rule 17a-7.

LGIMA Engaged In Prohibited Cross Trades and Principal Transactions

10. From August 2017 through December 2020, LGIMA effected 44,125 principal transactions without making the required client disclosures or obtaining the required client consents. LGIMA effected four prohibited principal transactions from August 2017 until the implementation of the ENP; the remaining 44,121 were effected through the ENP from May 2019 through December 2020. LGIMA, or LGIMA controlling persons, owned more than twenty-five percent of the funds in each principal account.

11. In addition, between April 2018 and May 2020, LGIMA effected 547 cross trades between LGIMA RIC accounts and certain of LGIMA's other clients who were affiliated persons of a RIC or affiliated persons of an affiliated person of a RIC, without obtaining an exemptive order or being able to rely on an exemptive rule. From April 2018 through April 2019, prior to the implementation of the ENP, LGIMA caused one unlawful cross trade involving a RIC account. From June 2019 through May 2020, when the ENP was in effect, LGIMA caused an additional 546 unlawful cross trades involving three RIC client accounts. LGIMA did not notify the full boards of directors of those RIC advisory clients of these trades, and thus the respective boards could not determine on a quarterly basis that the cross trades had been effected in compliance with the RIC's procedures, as Rule 17a-7 requires.

12. Each of the unlawful cross trades was executed at the prevailing market price, almost exclusively through dual market-on-close orders that were ultimately executed at the market closing price. None of the trades effected through the ENP was charged a commission.

LGIMA's Policies and Procedures Were Inadequate to Prevent Its Violations

13. LGIMA failed to adopt and implement policies and procedures reasonably designed to prevent violations of the federal securities laws and Commission rules governing principal transactions and cross trading. Among other things, LGIMA personnel did not receive adequate training on principal transactions or cross trades.

14. LGIMA's Cross Trading Policy stated that "LGIMA does not engage in Principal Trades." Yet, during the Relevant Period, LGIMA did not adopt any procedures or take any steps to ensure that LGIMA personnel followed this policy and did not engage in principal trades. LGIMA did not conduct testing to monitor or review potential principal trades.

15. Similarly, LGIMA's Cross Trading Policy stated that cross trades executed on behalf of LGIMA-advised RICs "will comply with Rule 17a-7 under the Investment Company Act and the mutual fund's procedures adopted pursuant to that rule." But, LGIMA did not have procedures or controls in place to identify or monitor cross trades involving RICs. LGIMA did not conduct any testing to monitor or review cross trades involving RIC advisory clients until November 2019, at which point only certain RIC advisory clients were monitored for potential cross trades. Further, because LGIMA did not have procedures or controls in place to identify or monitor cross trades involving RICs, it did not inform the boards of directors of RICs that it had engaged in cross trades involving those RIC advisory client accounts for the relevant quarters.

16. LGIMA also failed to implement its Cross Trading Policy's requirement that all cross trades "must be documented via an email sent to a specified LGIMA email address, approved by Compliance, and monitored for compliance with these requirements." During the Relevant Period, LGIMA effected over 126,000 equity cross trades for execution by a third-party broker, but LGIMA personnel did not send any emails to the specified email address to document any of these equity cross trades or obtain approval from LGIMA Compliance.

17. LGIMA failed to train its employees adequately on the regulatory requirements applicable to principal trades and cross trades. LGIMA conducted only a single cross trading training during the Relevant Period, which reiterated LGIMA's general cross trading policies. The training lacked any framework or guidance for following those policies or the relevant regulatory requirements and failed to include any references to principal trades or LGIMA's principal trades policy. Because LGIMA did not adequately train its employees, those employees failed to understand the requirements for cross trades and principal transactions.

Violations

18. As a result of the conduct described above, LGIMA willfully[1] violated Section 206(3) of the Advisers Act, which prohibits an investment adviser, acting as principal for its own account, from knowingly selling securities to or purchasing securities from the adviser's clients without disclosing to such clients in writing before the completion of such transactions the capacity in which the adviser is acting and obtaining the consent of the clients to such transactions. Here, LGIMA arranged trades between advisory clients and private funds (some of which were advised by LGIMA) in which LGIMA, or LGIMA controlling persons, owned more than twenty-five percent of the funds. Thus, LGIMA was acting as principal for trades involving those private funds, but did not provide prior written notification or obtain prior consent from the other advisory clients and, therefore, violated Section 206(3) of the Advisers Act.

19. As a result of the conduct described above, LGIMA willfully violated Section 206(4) of the Advisers Act and Rule 206(4)-7 thereunder, which require, among other things, that registered investment advisers adopt and implement written policies and procedures reasonably designed to prevent violations, by the investment adviser and its supervised persons, of the Advisers Act and its rules.

20. As a result of the conduct described above, LGIMA caused certain LGIMA advisory clients to violate Sections 17(a)(1) and 17(a)(2) of the Investment Company Act, which make it unlawful for any affiliated person or promoter of or principal underwriter for a RIC or any affiliated person of such a person, promoter, or principal underwriter, acting as principal (1) knowingly to sell any security or other property to such RIC or to any company controlled by such RIC, or (2) knowingly to purchase from such RIC, or from any company controlled by such RIC, any security or other property, unless the adviser obtains an exemptive order under Section 17(b) of the Investment Company Act, or the transaction complies with the exemption requirements of Rule 17a-7 under the Investment Company Act. LGIMA did not seek an exemptive order for any cross transaction, and the transactions were not exempt from the prohibition by virtue of Rule 17a-7 because, among other things, LGIMA did not disclose the cross transactions to the RICs and, therefore, the respective boards of directors of the affected RICs were unable to determine whether the transactions had been effected in compliance with Rule 17a-7.

21. As a result of the conduct described above, LGIMA caused certain advisory clients to violate Rule 38a-1 of the Investment Company Act, which requires a registered investment company to adopt and implement written policies and procedures reasonably designed to prevent violations of the federal securities laws.

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[1] "Willfully," for purposes of imposing relief under Section 203(e) of the Advisers Act and Section 9(b) of the Investment Company 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[ted]" material information from a required disclosure in violation of Section 207 of the Advisers Act).

LGIMA's Cooperation and Remedial Efforts

22. In determining to accept the Offer, the Commission considered remedial acts promptly undertaken by Respondent and cooperation afforded the Commission staff. When LGIMA discovered that it had engaged in prohibited principal trades and cross trades involving RIC advisory client accounts, it promptly hired outside counsel and an economic consultant to conduct a review of its trading practices. LGIMA then self-reported the potential violations to the Commission staff, and provided detailed presentations, analyses, and responses to staff questions based on its findings.

23. In addition, LGIMA stopped using the ENP and ceased all cross trading. LGIMA subsequently revised its Cross Trading Policy and implemented additional review and monitoring procedures to ensure that no LGIMA clients participate in any equity cross trades until LGIMA can relaunch the ENP with hard-coding to prevent any principal trades or cross trades involving RIC advisory clients from occurring. LGIMA also disclosed to its advisory clients that the violative trading had occurred and that LGIMA had self-reported the trading to the SEC. Finally, LGIMA implemented mandatory compliance trading on cross trading, including principal trades, for all trading, legal, compliance, and operational employees.

IV.

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

Accordingly, pursuant to Sections 203(e) and 203(k) of the Advisers Act and Sections 9(b) and 9(f) of the Investment Company Act, it is hereby ORDERED that:

A. LGIMA cease and desist from committing or causing any violations and any future violations of Sections 206(3) and 206(4) of the Advisers Act and Rule 206(4)-7 thereunder and Sections 17(a)(1) and 17(a)(2) of the Investment Company Act and Rule 38a-1 thereunder;

B. LGIMA is censured; and

C. LGIMA shall, within ten (10) days of the entry of this Order, pay a civil money penalty in the amount of $500,000.00 to the Securities and Exchange Commission for transfer to the general fund of the United States Treasury, subject to Exchange Act Section 21F(g)(3). If timely payment is not made, additional interest shall accrue pursuant to 31 U.S.C. § 3717. Payment must be made in one of the following ways:

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

(2) 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

(3) 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 LGIMA as a 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 Stacy L. Bogert, Division of Enforcement, Securities and Exchange Commission, 100 F Street, N.E., Washington, DC 20549.

D. 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.

E. Respondent acknowledges that the Commission is not imposing a civil penalty in excess of $500,000 based upon its cooperation in a Commission investigation and related enforcement action. If at any time following the entry of the Order, the Division of Enforcement ("Division") obtains information indicating that Respondent knowingly provided materially false or misleading information or materials to the Commission, or in a related proceeding, the Division may, at its sole discretion and with prior notice to the Respondent, petition the Commission to reopen this matter and seek an order directing that the Respondent pay an additional civil penalty. Respondent may contest by way of defense in any resulting administrative proceeding whether it knowingly provided materially false or misleading information, but may not: (1) contest the findings in the Order; or (2) assert any defense to liability or remedy, including, but not limited to, any statute of limitations defense.

By the Commission.

Vanessa A. Countryman
Secretary