UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 96719 / January 19, 2023

INVESTMENT ADVISERS ACT OF 1940
Release No. 6222 / January 19, 2023

ADMINISTRATIVE PROCEEDING
File No. 3-21282

In the Matter of

MOORS & CABOT, INC.,

Respondent.

ORDER INSTITUTING ADMINISTRATIVE AND CEASE-AND-DESIST PROCEEDINGS PURSUANT TO 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

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) 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 Moors & Cabot, Inc. ("Respondent" or "Moors & Cabot").

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 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"), as set forth below.

III.

On the basis of this Order and Respondent's Offer, the Commission finds[1] that:

Summary

1. These proceedings arise out of Moors & Cabot's breach of its fiduciary duty to advisory clients through its failure, between at least February 2017 and September 2021, to fully and fairly disclose material facts and conflicts of interest associated with certain revenue sharing payments and financial incentives that Moors & Cabot received from two unaffiliated clearing brokers, hereafter referred to as "Clearing Broker A" and "Clearing Broker B." Clearing brokers generally execute securities transactions on behalf of an introducing broker (in this case, Moors & Cabot), maintain transaction records, and keep custody of the introducing broker's customers' securities. Clearing brokers can, and in this case did, earn fees in connection with securities and services sold to an introducing broker's customers. Clearing brokers can also share those fees with the introducing broker in the form of revenue sharing payments.

2. In this case, Clearing Broker A and Clearing Broker B provided Moors & Cabot with certain revenue sharing payments and financial incentives: (1) transaction fee discounts and incentive credits that were contingent upon meeting certain dollar amount thresholds in Federal Deposit Insurance Corporation ("FDIC") insured bank deposit cash sweep ("BDS") programs, which are services that automatically transfer advisory clients' uninvested cash into interest-paying bank accounts; (2) revenue sharing payments based in part on the amount of Moors & Cabot's advisory clients' assets in those cash sweep programs; (3) revenue sharing payments from loans provided to Moors & Cabot's advisory clients in order to purchase securities ("margin loans"); and (4) revenue sharing payments from postage and handling fees that Clearing Broker A charged to Moors & Cabot's advisory clients. The revenue sharing payments and financial incentives presented conflicts of interest for Moors & Cabot, because they created incentives for Moors & Cabot to: (a) allocate clients' assets to cash that would be swept into FDIC-insured BDS accounts; (b) recommend FDIC-insured BDS accounts to certain customers when other sweep options were available; (c) recommend margin loans; and (d) utilize Clearing Broker A or Clearing Broker B. During certain time periods beginning in at least February 2017, Moors & Cabot did not adequately disclose the revenue sharing payments and financial incentive arrangements, nor the associated conflicts of interest, to advisory clients.

3. Moors & Cabot also failed to adequately disclose to clients and prospective clients material information about its own disciplinary history, and failed to disclose to certain clients and prospective clients material information about the disciplinary histories of two investment adviser representatives.

4. In addition, Moors & Cabot failed to implement written compliance policies and procedures reasonably designed to prevent violations of the Advisers Act in connection with the

[1] The findings herein are made pursuant to Respondent's Offer of Settlement and are not binding on any other person or entity in this or any other proceeding.

disclosure of revenue sharing, fee markups, financial incentives, and associated conflicts of interest, as well as disciplinary histories.

5. As a result of the conduct described above, Moors & Cabot willfully violated Sections 206(2) and 206(4) of the Advisers Act and Rule 206(4)-7 thereunder.

Respondent

6. Moors & Cabot is incorporated in Massachusetts and has its principal place of business in Boston, Massachusetts. Moors & Cabot has been registered with the Commission as an investment adviser since March 30, 1995, and as a broker-dealer since October 6, 1978. As of September 27, 2022, Moors & Cabot reported in its Commission filings regulatory assets under management of $2,237,487,715 across 4,041 client accounts.

Background

7. Moors & Cabot provides investment advisory services to individuals, high-net-worth individuals, charitable organizations, pensions, trusts and estates, and businesses. Advisory clients pay Moors & Cabot an annual fee for asset management services.

8. As an investment adviser, Moors & Cabot has a fiduciary duty under the Advisers Act to disclose all material facts to its advisory clients, including any conflicts of interest between itself and its clients. Moors & Cabot is also obligated to disclose all material facts relating to how those conflicts could affect the advice that Moors & Cabot provides to its clients. To meet this fiduciary duty, Moors & Cabot is required to provide its advisory clients with full and fair disclosure that is sufficiently specific such that clients can understand the conflicts of interest concerning Moors & Cabot's investment advice and have an informed basis upon which they can consent to or reject the conflicts.

9. Most Moors & Cabot advisory clients are required through their agreement with Moors & Cabot to use Moors & Cabot as their broker-dealer of record.[2] Moors & Cabot, in turn, engages an unaffiliated third-party broker-dealer to provide clearing and custodial services to Moors & Cabot's advisory clients. Between March 2008 and January 2020, Moors & Cabot used the services of Clearing Broker A. Since January 2020, Moors & Cabot has used the services of Clearing Broker B.

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[2] Moors & Cabot clients who have "advice only" relationships are able to hold their assets with other brokerage firms and are solely responsible for implementing recommendations provided by Moors & Cabot.

Failure to Fully and Fairly Disclose
Financial Incentives and Compensation Received From Clearing Broker A

Revenue Sharing On Bank Deposit Cash Sweep Balances

10. Clearing Broker A provided Moors & Cabot advisory clients with a cash sweep program that allowed clients to earn a return on uninvested cash balances in their accounts by automatically transferring the cash balances into a cash sweep product until the cash was invested or otherwise used to satisfy obligations. For most Moors & Cabot advisory clients, the only cash sweep option provided by Clearing Broker A was an FDIC-insured BDS account at one or more banks selected by Clearing Broker A. Between at least February 1, 2017 and June 9, 2017, however, for Moors & Cabot clients with discretionary nontaxable advisory accounts, Clearing Broker A also provided two money market mutual funds—hereafter referred to as "Money Market Fund A" and "Money Market Fund B"—as alternative cash sweep options. With respect to BDS accounts and Money Market Fund B, Clearing Broker A collected fees from the banks and the mutual fund sponsors, and Moors & Cabot shared in these fees through revenue sharing payments from Clearing Broker A. Moors & Cabot's revenue share varied depending on the cash sweep product selected, and generally the dollar amount of revenue share increased along with the aggregate balance of client funds in the cash sweep product.

11. Notwithstanding that Moors & Cabot advisory clients with discretionary nontaxable accounts had the option of selecting Money Market Fund A or Money Market Fund B as their cash sweep option between February 1, 2017 and June 9, 2017, BDS accounts were the default cash sweep option during that time period. Accordingly, Moors & Cabot advisory clients with discretionary nontaxable accounts were assigned that option unless they specified another eligible choice. Both Money Market Fund A and Money Market Fund B offered Moors & Cabot clients higher rates of return than the BDS option. The BDS option resulted in higher revenue sharing payments to Moors & Cabot, however. Revenue sharing payments to Moors & Cabot from Clearing Broker A based on cash balances swept into Money Market Fund B were lower than the revenue sharing payments associated with BDS accounts. Clearing Broker A did not make any revenue sharing payments to Moors & Cabot in connection with Money Market Fund A.

12. During the time period described in Paragraph 11, Moors & Cabot provided advisory clients with a written disclosure document created by Clearing Broker A. That disclosure document stated that Moors & Cabot received fees and financial benefits in connection with the cash sweep program; that the BDS option "<u>may be significantly more profitable to [Moors & Cabot] . . . than other available Cash Sweep Vehicles, if any</u>"; and that Moors & Cabot "may choose to make available the Cash Sweep Vehicles that are more profitable to us than other money market mutual funds or bank deposit accounts." (Emphasis in original.) Moors & Cabot did not fully and fairly disclose to advisory clients with discretionary nontaxable accounts that, by default, all of their uninvested cash would be placed in the cash sweep option that was consistently least profitable to clients and most profitable to Moors & Cabot, rather than in other available options that were consistently more profitable to clients and less profitable to Moors & Cabot.

Discounted Transaction Fees

13. Under Moors & Cabot's agreement with Clearing Broker A, Moors & Cabot paid transaction fees on trades executed on behalf of advisory clients. Clearing Broker A provided Moors & Cabot with a $1 discount on trades in equity and mutual fund shares and options. The discount was contingent upon Moors & Cabot maintaining BDS account balances above certain dollar thresholds. As a result, in addition to receiving revenue sharing, Moors & Cabot had a further financial incentive to allocate advisory clients' accounts to cash that would be swept into the BDS accounts. Between at least February 2017 and January 2020, Moors & Cabot met the BDS account balance thresholds set forth in Moors & Cabot's agreement with Clearing Broker A. Accordingly, Moors & Cabot received the ticket charge discount from Clearing Broker A during those years.

14. Moors & Cabot failed to fully and fairly disclose the discounted ticket charge or the incentive that discount created for Moors & Cabot to allocate advisory clients' accounts to cash that would be swept into the BDS accounts.

Margin Interest Payments

15. Clearing Broker A extended credit to Moors & Cabot advisory clients for the purpose of buying securities on margin. Under Moors & Cabot's agreement with Clearing Broker A, Moors & Cabot determined the client margin interest rate. Whenever Moors & Cabot clients held margin loan balances at Clearing Broker A, Moors & Cabot received revenue sharing payments equal to the difference between the client's margin interest rate and Clearing Broker A's cost of funds.

16. Between at least February 2017 and January 2020, although the full margin interest rate was disclosed to Moors & Cabot's advisory clients at the time of account opening and in monthly statements, Moors & Cabot did not disclose that it shared in the interest from the margin loans offered by Clearing Broker A. Moors & Cabot also did not disclose that, as a result of that revenue sharing, it had an incentive to recommend margin loans to advisory clients.

Postage and Handling Fee Markups

17. Clearing Broker A charged Moors & Cabot advisory clients a postage and handling fee in connection with each trade executed on their behalf. Under Moors & Cabot's agreement with Clearing Broker A, the postage and handling fee was set at $2.25 per trade. Moors & Cabot was permitted to mark the fee up and retain any amount above $2.25, however. Moors & Cabot imposed a $5.70 markup, such that advisory clients were charged a $7.95 postage and handling fee on each trade.

18. The full amount of the $7.95 postage and handling fee was disclosed to clients as a "transaction fee" in their trade confirmations and in Moors & Cabot's Form ADV, Part 2A. Form ADV is used by investment advisers to register with the SEC. Part 2A, also known as the "brochure," is the primary disclosure document for investment advisers such as Moors & Cabot.

The brochure includes narrative disclosures written in plain English about the adviser's fees, among other things. Investment advisers are required to deliver their brochures to advisory clients and prospective advisory clients, and the brochures are also made available to the public online. Between at least February 2017 and January 2020, Moors & Cabot failed to disclose in its brochure or in any other document provided to clients or prospective clients that the $7.95 postage and handling fee included a $5.70 markup retained by Moors & Cabot. Nor did Moors & Cabot disclose that the markup provided Moors & Cabot with an incentive to use the services of Clearing Broker A.

Failure to Fully and Fairly Disclose
Financial Incentives and Compensation Received From Clearing Broker B

Revenue Sharing On Bank Deposit Cash Sweep Balances

19. Clearing Broker B also provides a cash sweep program to Moors & Cabot clients. The options in Clearing Broker B's cash sweep program include BDS accounts and, for clients with over $1 million in uninvested cash in their accounts, a money market mutual fund. As was the case with Clearing Broker A's cash sweep program, the default cash sweep option for all Moors & Cabot clients at Clearing Broker B is BDS accounts. Clearing Broker B receives fees from the program banks it selects to participate in the BDS program. Under Moors & Cabot's agreement with Clearing Broker B, Moors & Cabot shares in these fees through revenue sharing payments from Clearing Broker B. Moors & Cabot's revenue share generally increases along with the aggregate balance of client funds in the cash sweep accounts.

20. Between January 2020 and June 2020, Moors & Cabot failed to fully and fairly disclose that it received financial benefits based on balances in BDS accounts offered by Clearing Broker B, and therefore had an incentive to allocate advisory clients' assets to cash that would be swept into BDS accounts. Moors & Cabot's brochure disclosed only that the cash sweep program "may create financial benefits for Moors & Cabot as we receive a fee from each program bank in connection with these programs (equal to a percentage of all participants' average daily deposits at the program banks)." (Emphasis added.) In fact, Moors & Cabot did receive such financial benefits.

21. Furthermore, Clearing Broker B provides an alternative cash sweep option for Moors & Cabot advisory clients who hold at least $1 million in cash: an institutional share class of a money market fund hereafter referred to as "Money Market Fund C." Institutional share classes of mutual funds are generally made available to large investors (often organizations that invest on behalf of others), and they typically require minimum investments and have lower fees than other share classes. Between January 2020 and September 2021, the institutional share class of Money Market Fund C offered Moors & Cabot clients a higher rate of return on average than BDS accounts. Unlike BDS accounts, however, Clearing Broker B does not make any revenue sharing payments to Moors & Cabot in connection with client cash swept into the institutional share class of Money Market Fund C.

22. During the time period described in Paragraph 21, Moors & Cabot failed to fully and fairly disclose to advisory clients with over $1 million in cash that, by default, their cash would be swept into the BDS option that was more profitable to Moors & Cabot, even though those clients had access to a money market cash sweep option that was less profitable to Moors & Cabot and more profitable to the clients.

Incentive Credits

23. Under the agreement between Moors & Cabot and Clearing Broker B, Moors & Cabot is eligible to receive a series of incentive credits in the form of loan forgiveness over time if Moors & Cabot maintains certain BDS account balance thresholds (based on both brokerage customer and advisory client account balances) at specific six-month evaluation dates. As a result, Moors & Cabot has had a financial incentive to allocate clients' accounts to cash that would be swept into BDS accounts. Throughout the relationship, Moors & Cabot has consistently maintained the required threshold balances. As a result, Moors & Cabot has received each incentive credit for which it has been eligible under the agreement with Clearing Broker B.

24. Between January 2020 and September 2021, however, Moors & Cabot failed to fully and fairly disclose that it was to receive multiple incentive credits from Clearing Broker B that were contingent upon the maintenance of minimum BDS account balance thresholds. Moors & Cabot also failed to fully and fairly disclose that the incentive credits created an incentive for Moors & Cabot to allocate client accounts to cash that would be swept into BDS accounts.

Margin Interest Payments

25. Like Clearing Broker A, Clearing Broker B extends credit to Moors & Cabot advisory clients for the purpose of buying securities on margin. Under Moors & Cabot's agreement with Clearing Broker B, whenever Moors & Cabot advisory clients hold margin loan balances, Moors & Cabot receives interest payments equal to the difference between the client margin interest rate and a base lending rate.

26. The full margin interest rate was disclosed to Moors & Cabot's advisory clients at the time of account opening and in monthly statements. Between January 2020 and September 2021, however, Moors & Cabot did not disclose that it shared in the interest from the margin loans offered by Clearing Broker B, and that Moors & Cabot therefore had an incentive to recommend margin loans to advisory clients.

Failure to Fully and Fairly Disclose Disciplinary Histories

27. Prior to September 2021, Moors & Cabot failed to fully and fairly disclose in its brochures or otherwise material information related to its own disciplinary history, as well as the disciplinary histories of certain supervised persons. Moors & Cabot was required by the Advisers Act to disclose in its brochure all material facts relating to "legal or disciplinary events that are material to a client's or prospective client's evaluation of [its] advisory business or the integrity of [its] management." Prior to September 2021, however, Moors & Cabot's brochure, which Moors

& Cabot was required to provide to clients and prospective clients, stated only that the firm had "disciplinary history that we believe you should be aware of related to 'an administrative proceeding before the SEC or a state regulatory agency.' The vast majority of these events occurred some time ago, and they relate to our broker dealer business (versus our investment advisory business)." Moors & Cabot provided no information regarding the proceedings and directed clients to access records through a website maintained by the Financial Industry Regulatory Authority ("FINRA"). The undisclosed details included a settlement between Moors & Cabot and FINRA in 2020.

28. Moors & Cabot was also required by the Advisers Act to disclose "legal or disciplinary events material to a client's or prospective client's evaluation of [a] supervised person" in Form ADV, Part 2B (the "brochure supplement"). Prior to September 2021, Moors & Cabot failed to disclose in brochure supplements, which Moors & Cabot was required to provide to clients and prospective clients of two supervised persons, the existence of FINRA enforcement actions against those supervised persons.

Compliance Deficiencies

29. Moors & Cabot did not implement written policies and procedures reasonably designed to disclose all material facts regarding revenue sharing, fee markups, markups on margin interest, financial incentives, and associated conflicts of interest, as well as disciplinary histories. Moors & Cabot had written policies and procedures relating to the disclosure of conflicts of interest and disciplinary histories, and the review of brochures to ensure that they contained appropriate disclosures. Moors & Cabot failed to implement these policies and procedures, however, as it failed to identify and disclose revenue sharing, fee markups, markups on margin interest, and financial incentives received from clearing firms and the associated conflicts, as well as the material details of Moors & Cabot's own disciplinary history and the disciplinary history of two supervised persons.

Violations

30. As a result of the conduct described above, Moors & Cabot willfully violated Section 206(2) of the Advisers Act, which makes it unlawful for any investment adviser, directly or indirectly, to "engage in any transaction, practice or course of business which operates as a fraud or deceit upon any client or prospective client." Scienter is not required to establish a violation of Section 206(2), but rather a violation may rest on a finding of negligence. *SEC v. Steadman*, 967 F.2d 636, 643 n.5 (D.C. Cir. 1992) (citing *SEC v. Capital Gains Research Bureau, Inc.*, 375 U.S. 180, 194-95 (1963)).

31. As a result of the conduct described above, Moors & Cabot willfully violated Section 206(4) of the Advisers Act and Rule 206(4)-7 thereunder, which require a registered investment adviser to adopt and implement written compliance policies and procedures reasonably designed to prevent violations of the Advisers Act and the rules thereunder.

Disgorgement

32. The disgorgement and prejudgment interest ordered in Section IV.C. is consistent with equitable principles and does not exceed Respondent's net profits from its violations, and will be distributed to harmed investors to the extent feasible. Upon approval of the distribution final accounting by the Commission staff, any amounts remaining that are infeasible to return to investors, and any amounts returned to the Commission in the future that are infeasible to return to investors, may be transferred to the general fund of the U.S. Treasury, subject to Section 21F(g)(3) of the Exchange Act.

Remedial Efforts and Cooperation

33. In determining to accept the Offer, the Commission considered remedial acts promptly undertaken by Respondent and cooperation afforded the Commission staff.

Undertakings

Respondent undertakes to:

34. Within 30 days of the entry of this Order, review and correct as necessary all relevant disclosure documents concerning financial incentives or compensation received from its clearing broker(s) and associated conflicts of interest, as well as Moors & Cabot's disciplinary history and the disciplinary history of its associated persons.

35. Within 30 days of the entry of this Order, evaluate, update (if necessary), and review for the effectiveness of their implementation, Respondent's policies and procedures so that they are reasonably designed to prevent violations of the Advisers Act and the rules thereunder in connection with disclosures regarding financial incentives or compensation received from Moors & Cabot's clearing broker(s) and associated conflicts of interest, as well as Moors & Cabot's disciplinary history and the disciplinary histories of its associated persons.

36. Within 30 days of the entry of this Order, notify affected investors of the terms of this Order by sending a copy of this Order to each affected investor via mail, email, or such other method not unacceptable to the Commission staff, together with a cover letter in a form not unacceptable to the Commission staff.

37. Within 45 days of the entry of this Order, certify, in writing, compliance with the undertakings set forth above. The certification shall identify the undertaking(s), provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Commission staff may make reasonable requests for further evidence of compliance, and Respondent agrees to provide such evidence. The certification and supporting material shall be submitted to Celia Moore, Assistant Director, Boston Regional Office, Securities and Exchange Commission, 33 Arch Street, 24th Floor, Boston, Massachusetts

02110, or such other address as the Commission staff may provide, with a copy to the Office of Chief Counsel of the Division of Enforcement, Securities and Exchange Commission, 100 F Street, N.E., Washington, DC 20549.

38. For good cause shown, the Commission staff may extend any of the procedural dates relating to these undertakings. Deadlines for procedural dates 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 the last day.

IV.

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

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

A. Moors & Cabot shall cease and desist from committing or causing any violations and any future violations of Sections 206(2) and 206(4) of the Advisers Act and Rule 206(4)-7 promulgated thereunder.

B. Moors & Cabot is censured.

C. Moors & Cabot shall pay disgorgement, prejudgment interest, and a civil penalty, totaling $1,899,456, as follows:

(i) Moors & Cabot shall pay disgorgement of $1,436,182 and prejudgment interest of $88,274, consistent with the provisions of this Subsection C.

(ii) Moors & Cabot shall pay a civil penalty in the amount of $375,000, consistent with the provisions of this Subsection C.

(iii) Within ten (10) days of the entry of this Order, Moors & Cabot shall deposit the full amount of the disgorgement, prejudgment interest, and civil penalty (the "Fair Fund"), into an escrow account at a financial institution not unacceptable to the Commission staff, and Respondent shall provide the Commission staff with evidence of such deposit in a form acceptable to the Commission staff. The account holding the assets of the Fair Fund shall bear the name and the taxpayer identification number of the Fair Fund. If timely deposit into the escrow account is not made, additional interest shall accrue pursuant to SEC Rule of Practice 600 [17 C.F.R. § 201.600] and 31 U.S.C. § 3717.

(iv) Moors & Cabot shall be responsible for administering the Fair Fund and may hire a professional to assist it in the administration of the distribution. The costs and expenses of administering the Fair Fund, including any such

professional services, shall be borne by Moors & Cabot and shall not be paid out of the Fair Fund.

(v) Moors & Cabot shall distribute from the Fair Fund to each affected investor an amount representing the financial harm during the relevant period by the practices discussed above pursuant to a disbursement calculation (the "Calculation") that will be submitted to, reviewed, and approved by the Commission staff in accordance with this Subsection C. If there are insufficient funds to fully compensate affected advisory clients for these amounts, the Fair Fund will be distributed to affected advisory clients whose losses meet the *de minimis* threshold in a *pro rata* fashion. If sufficient funds are available, reasonable interest will be paid on such amounts. No portion of the Fair Fund shall be paid to any affected investor account in which Moors & Cabot, or any of its current or former officers or directors, has a financial interest.

(vi) Moors & Cabot shall, within thirty (30) days of the entry of this Order, submit a Calculation to the Commission staff for review and approval. At or around the time of submission of the proposed Calculation to the Commission staff, Moors & Cabot shall make itself available, and shall require any third-parties or professionals retained by Moors & Cabot to assist in formulating the methodology for its 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 Calculation and its implementation, and to provide the Commission staff with an opportunity to ask questions. Moors & Cabot 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 Moors & Cabot's proposed Calculation or any of its information or supporting documentation, Moors & Cabot shall submit a revised Calculation for the review and approval of the Commission staff or additional information or supporting documentation within ten (10) days of the date that the Commission staff notifies Moors & Cabot of the objection. The revised Calculation shall be subject to all of the provisions of this Subsection C.

(vii) Moors & Cabot shall, within ninety (90) days of the written approval of the Calculation by the Commission staff, submit a payment file (the "Payment File") for review and acceptance by the Commission staff demonstrating the application of the methodology to each affected investor. The Payment File should identify, at a minimum, (1) the name of each affected investor; (2) the exact amount of the payment to be made; (3) the amount of any *de minimis* threshold to be applied; and (4) the amount of reasonable interest paid. The Respondent shall exclude from

the payee file all payments to payees that appear on the U.S. Treasury Department Specially Designated Nationals List.[3]

(viii) Moors & Cabot shall complete the disbursement of all amounts payable to affected investors within ninety (90) days of the date the Commission staff accepts the Payment File unless such time period is extended as provided in Paragraph (xiii) of this Subsection C. Moors & Cabot shall notify the Commission staff of the date and the amount paid in the initial distribution.

(ix) Within one hundred eighty (180) days of completing disbursements payable to affected investors, Moors & Cabot shall submit to the Commission staff a final accounting and certification of the disposition of the Fair Fund for Commission approval, which final accounting and certification shall include, but not be limited to: (1) the amount paid to each payee, with the reasonable interest amount, if any, reported separately; (2) the date of each payment; (3) the check number or other identifier of the money transferred; (4) the amount of any returned payment and the date received; (5) a description of the efforts to locate a prospective payee whose payment was returned or to whom payment was not made for any reason; (6) the total amount, if any, to be forwarded to the Commission for transfer to the United States Treasury; and (7) an affirmation that Moors & Cabot has made payments from the Fair Fund to affected investors in accordance with the Calculation approved by the Commission staff. The final accounting and certification, together with proof and supporting documentation of such payment in a form acceptable to Commission staff, shall be sent to Celia Moore, Assistant Director, Boston Regional Office, Securities and Exchange Commission, 33 Arch Street, 24th Floor, Boston, MA 02110, or such other address as the Commission staff may provide. Moors & Cabot 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. In the event that payments by Moors & Cabot total less than the amount of the Fair Fund, and the Commission staff determines that the facts and circumstances support the amount Moors & Cabot paid to clients, Moors & Cabot, within thirty (30) days of that determination, shall transfer the amount remaining in the Fair Fund to the Commission, as described in Section IV.C.x., below.

(x) Moors & Cabot shall transfer any such undistributed funds to the Commission for transmittal to the United States Treasury in accordance

[3] https://home.treasury.gov/policy-issues/financial-sanctions/specially-designated-nationals-and-blocked-persons-list-sdn-human-readable-lists.

with Section 21F(g)(3) of the Exchange Act. Payment must be made in one of the following ways:

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

(b) 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

(c) 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 Moors & Cabot as the 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 Celia Moore, Assistant Director, Boston Regional Office, Securities and Exchange Commission, 33 Arch Street, 24th Floor, Boston, MA 02110, or such other address as the Commission staff may provide.

(xi) Pursuant to Section 308(a) of the Sarbanes-Oxley Act of 2002, as amended, a Fair Fund is created for the penalties, disgorgement, and prejudgment interest described 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, 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 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.

(xii) A Fair 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. Respondent shall be responsible for all tax compliance responsibilities associated with the Fair Fund, including but not limited to tax obligations resulting from the Fair 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 any such professional services shall be borne by Respondent and shall not be paid out of the Fair Fund.

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

D. Moors & Cabot shall comply with the undertakings enumerated in Section III, paragraphs 34-37, above.

By the Commission.

Vanessa A. Countryman
Secretary