

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING
File No. 3-20906

| | | |
|--|---|-----------------------------|
| In the Matter of | : | |
| | : | |
| | : | |
| Geluk Capital Management Ltd. and | : | PLAN OF DISTRIBUTION |
| Douglas Gerald Fathers, | : | |
| | : | |
| Respondents. | : | |

I. OVERVIEW

1. The Division of Enforcement submitted this Plan of Distribution (the “Plan”) to the United States Securities and Exchange Commission (the “Commission”) pursuant to Rule 1101 of the Commission’s Rules on Fair Fund and Disgorgement Plans (the “Commission’s Rules”), 17 C.F.R. § 201.1101. This Plan provides for the distribution of a Fair Fund (the “Fair Fund”) comprised of disgorgement, prejudgment interest, and civil money penalties collected from Geluk Capital Management Ltd. (“Geluk Capital”) and Douglas Gerald Fathers (“Fathers”) (collectively, the “Respondents”) in the above-captioned matter.¹

2. As described more specifically below, the Plan seeks to compensate investors who were harmed by the Respondents’ conduct described in the Order. Based on information obtained by the Commission staff during its investigation and the review and analysis of applicable records, the Commission staff has reasonably concluded that it has all records necessary to calculate each investor’s harm. As a result, the Fair Fund is not being distributed according to a claims-made process, so procedures for making and approving claims in accordance with Rule 1101(b)(4) of the Commission’s Rules, 17 C.F.R. § 201.1101(b)(4), are not applicable.

3. As calculated using the methodology detailed in the Plan of Allocation (attached as Exhibit A), investors will be compensated for performance fees they paid to the Respondents in connection with the management of funds in the Geluk Global Fund Limited SAC (“Geluk Fund”), and related investment losses suffered as a result of the Respondents’ fraudulent conduct between January 1, 2018, and December 31, 2018, inclusive (the “Relevant Period”). Investors will be reimbursed the performance fees that they paid during the Relevant Period plus interest

¹ See Order Instituting Administrative and Cease-and-Desist Proceedings, Pursuant to Section 8A of the Securities Act of 1933, Section 21C of the Securities Exchange Act of 1934, Sections 203(e), 203(f), and 203(k) of the Investment Advisers Act of 1940, and Section 9(b) of the Investment Company Act of 1940, Making Findings, and Imposing Remedial Sanctions and a Cease-and-Desist Order, Securities Act Rel. No. 11077 (the “Order”).

and then compensated for their related investment losses on a *pro rata* basis from the funds remaining after the allocation of funds for performance fees and interest.

4. In the view of the Commission staff, this methodology constitutes a fair and reasonable allocation of the Fair Fund.

5. The Commission has custody of the Fair Fund and shall retain control of the assets of the Fair Fund. The Plan is subject to approval by the Commission, and the Commission retains jurisdiction over its implementation.

II. BACKGROUND

6. On June 24, 2022, the Commission issued the Order instituting and simultaneously settling administrative and cease-and-desist proceedings against the Respondents. In the Order, the Commission found that investment advisers Geluk Capital and Fathers misrepresented their offer and sale of securities in the Geluk Fund. According to the Order, from January through December 2018, Geluk Capital and Fathers represented to investors and prospective investors that the Geluk Fund had its own proprietary trading strategy and risk controls that had resulted in a multi-year track record of positive performance. However, as described in the Order, the Geluk Fund had none of these things and was instead sending investor money to a third-party manager. Further, the Commission found Geluk Capital and Fathers also charged the Geluk Fund fees in a manner that was inconsistent with fund governing documents. As a result of the conduct described therein, the Commission found that Geluk Capital and Fathers willfully violated Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 thereunder, Section 17(a) of the Securities Act, and Sections 206(1), 206(2), and 206(4) of the Investment Advisers Act of 1940 and Rule 206(4)-8 thereunder. The Commission ordered the Respondents to pay \$29,081.69 in disgorgement, \$3,607.23 in prejudgment interest, and a \$60,000 civil money penalty, for a total of \$92,688, to the Commission, pursuant to a payment plan detailed therein. The Commission also created the Fair Fund, pursuant to Section 308(a) of the Sarbanes-Oxley Act of 2002, so the penalty collected, along with the disgorgement and interest collected, can be distributed to harmed investors.

7. To date, the Respondents have paid a total of \$29,081.69, and any additional funds collected from the Respondents, pursuant to the Order will be added to the Fair Fund. The Fair Fund has been deposited in a Commission-designated account at the United States Department of the Treasury, and any accrued interest will be added to the Fair Fund.

III. DEFINITIONS

As used in this Plan, the following definitions will apply:

8. **“Administrative Costs”** shall mean any administrative costs and expenses, including without limitation tax obligations, the fees and expenses of the Tax Administrator, and investment and banking costs.

9. **“Distribution Payment”** means a payment from the Fair Fund to a Payee in

accordance with the terms of this Plan.

10. **“Eligible Claimant”** means a Preliminary Claimant, who is determined to have suffered a Recognized Loss, pursuant to the Plan of Allocation, and who is not an Excluded Party or an Unresponsive Preliminary Claimant.

11. **“Excluded Party”** shall mean: (a) the Respondents, and Respondents’ advisers, agents, nominees, assigns, creditors, heirs, distributees, spouses, parents, children, or controlled entities; and (b) any purchaser or assignee of another Person’s right to obtain a recovery from the Fair Fund for value; provided, however, that this provision shall not be construed to exclude those Persons who obtained such a right by gift, inheritance or devise.

12. **“Fair Fund”** means the fund created by the Commission pursuant to Section 308(a) of the Sarbanes-Oxley Act of 2002, for the benefit of investors harmed by Respondents’ violations described in the Order.

13. **“Final Determination Notice”** means the written notice sent by the Fund Administrator to (a) any Preliminary Claimant who timely submitted a written dispute of his, her, or its calculated Recognized Loss notifying the Preliminary Claimant of his resolution of the dispute; and (b) those Preliminary Claimants who have not responded to the Plan Notice as described in paragraph 35, except for those whose Plan Notice were returned as “undeliverable,” notifying the Preliminary Claimant that he, she, or it has been deemed an Unresponsive Preliminary Claimant. The Final Determination Notice will constitute the Fund Administrator’s final ruling regarding the status of the claim.

14. **“Net Available Fair Fund”** means the Fair Fund, plus any interest or earnings, less Administrative Costs.

15. **“Payee”** means an Eligible Claimant whose distribution amount is equal to or greater than \$10.00, as calculated in accordance with the Plan of Allocation, who is determined to receive a Distribution Payment.

16. **“Person”** means natural individuals as well as legal entities such as corporations, partnerships, or limited liability companies.

17. **“Plan Notice”** means a written notice from the Fund Administrator to each Preliminary Claimant regarding the Commission’s approval of the Plan, including, as appropriate: a statement characterizing the distribution; a link to the approved Plan posted on the Commission’s website and instructions for requesting a copy of the Plan; specification of any information needed from the Preliminary Claimant to prevent him, her, or it from being deemed an Unresponsive Preliminary Claimant; his, her, or its preliminary Recognized Loss; a description of the tax information reporting and other related tax matters; the procedure for the distribution as set forth in the Plan; and the name and contact information for the Fund Administrator as a resource for additional information or to contact with questions regarding the distribution.

18. **“Plan of Allocation”** means the methodology used by the Fund Administrator to calculate if a Preliminary Claimant has suffered a Recognized Loss. The Plan of Allocation is attached as Exhibit A.

19. **“Preliminary Claimant”** means a Person, or their lawful successors, identified by the Fund Administrator based on his review and analysis of applicable records obtained by the Commission staff during its investigation, who paid performance fees for management of funds in the Geluk Fund to the Respondents during the Relevant Period.

20. **“Recognized Loss”** means the amount of loss calculated in accordance with the Plan of Allocation.

21. **“Relevant Period”** is the period from January 1, 2018, through December 31, 2018, inclusive.

22. **“Unresponsive Preliminary Claimant”** means a Preliminary Claimant whose address the Fund Administrator has not been able to verify and/or who does not timely respond to the Fund Administrator’s attempts to obtain information, including any information sought in the Plan Notice. Unresponsive Preliminary Claimants will not be eligible for a distribution under the Plan.

IV. TAX COMPLIANCE

23. On July 17, 2023, the Commission appointed Heffler, Radetich & Saitta LLP as the tax administrator (the “Tax Administrator”) for the Fair Fund to handle the tax obligations of the Fair Fund.² The Tax Administrator will be compensated for reasonable fees and expenses from the Fair Fund in accordance with its 2022-2024 Letter Agreement with the Commission.³

24. The Fair Fund constitutes a Qualified Settlement Fund (“QSF”) under Section 468B(g) of the Internal Revenue Code of 1986, as amended, 26 U.S.C. § 468B(g), and related regulations, 26 C.F.R. §§ 1.468B-1 through 1.468B-5. The Tax Administrator is the administrator of such QSF for purposes of Treas. Reg. § 1.468B-2(k)(3)(I) and shall satisfy the tax-related administrative requirements imposed by Treas. Reg. § 1.468B-2, including, but not limited to:

- (a) Obtaining a taxpayer identification number;
- (b) Requesting funds necessary for the timely payment of all applicable taxes, the payment of taxes for which the Tax Administrator has received funds, and the filing of applicable returns; and
- (c) Fulfilling any information reporting or withholding requirements imposed on distributions from the Fair Fund.

² See Order Appointing Tax Administrator, Exchange Act Rel. No. 97916 (July 17, 2023).

³ See Omnibus Order Directing the Engagement of Two Tax Administrators for Appointment on a Case-By-Case Basis in Administrative Proceedings that Establish Distribution Funds, Exchange Act Rel. No. 94845 (May 4, 2022).

25. All tax obligations will be paid from the Fair Fund, subject to the review and approval of Commission staff.

V. FUND ADMINISTRATOR

26. Noel Gittens is the fund administrator for the Fair Fund (“Fund Administrator”). As a Commission employee, the Fund Administrator shall receive no compensation, other than his regular salary as a Commission employee, for his services in administering the Fair Fund. In accordance with Rule 1105(c) of the Commission’s Rules,⁴ no bond is required since the Fund Administrator is a Commission employee.

27. The Fund Administrator will be responsible for administering the Fair Fund in accordance with the Plan. This will include, among other things, taking reasonable steps to obtain accurate mailing information for Preliminary Claimants; disseminating the Plan Notice; preparing accountings; cooperating with the Tax Administrator appointed by the Commission to satisfy any tax liabilities and to ensure compliance with income tax reporting requirements, including but not limited to Foreign Account Tax Compliance Act (FATCA); disbursing the Fair Fund in accordance with this Plan, as ordered by the Commission; and researching and reconciling errors and reissuing payments, when possible.

28. To carry out the purposes of this Plan, the Fund Administrator is authorized to make and implement immaterial changes to the Plan upon agreement of the Commission staff. If a change is deemed to be material by the Commission staff, Commission approval is required prior to implementation by amending the Plan.

29. The Fund Administrator may extend any procedural deadline contained in the Plan for good cause shown, if agreed upon by the Commission staff.

VI. PLAN PROCEDURES

Specification of Preliminary Claimants

30. Using information obtained during its investigation, the Commission staff has identified the Preliminary Claimants. Preliminary Claimants are limited to only those Persons who paid performance fees to the Respondents in connection with investments in the Geluk Fund during the Relevant Period.

Procedures for Locating and Notifying Preliminary Claimants

31. Within thirty (30) days of Commission approval of the Plan, the Fund Administrator will send the Plan Notice to each Preliminary Claimant’s last known email address (if known) and/or mailing address.

⁴ 17 C.F.R. § 201.1105(c).

Undeliverable Mail

32. If any mailing is returned as undeliverable, the Fund Administrator will make the best practicable efforts to ascertain a Preliminary Claimant's correct address. If another address is obtained, the Fund Administrator will then resend it to the Preliminary Claimant's new address within thirty (30) days of receipt of the returned mail. If the mailing is returned again, and the Fund Administrator, despite best practicable efforts, is unable to find a Preliminary Claimant's correct address, the Fund Administrator, in his discretion, may deem such Preliminary Claimant an Unresponsive Preliminary Claimant.

33. Any Preliminary Claimant who relocates or otherwise changes contact information after receipt of the Plan Notice must promptly communicate any change in address or contact information to the Fund Administrator.

Procedures to Request Plan Notice

34. Any Person who does not receive a Plan Notice, as described in paragraph 31, but who is aware of this Plan (e.g., through other Preliminary Claimants or on www.sec.gov) and believes they should be included as a Preliminary Claimant should contact the Fund Administrator within forty-five (45) days from the approval of the Plan to establish that they should be considered a Preliminary Claimant. The Fund Administrator will send the Person a Plan Notice within thirty (30) days of receiving the Person's documentation, if the Fund Administrator determines that the Person should have received a Plan Notice.

Failure to Respond to Plan Notice

35. If a Preliminary Claimant is requested to respond and fails to respond within thirty (30) days from the initial mailing of the Plan Notice, the Fund Administrator will make no more than two (2) attempts to contact the Preliminary Claimant by telephone or email. The second attempt will, in no event, take place more than forty-five (45) days from the initial mailing of the Plan Notice. If a Preliminary Claimant fails to respond to the Fund Administrator's contact attempts as described in this paragraph, the Fund Administrator, in his discretion, may deem such Preliminary Claimant an Unresponsive Preliminary Claimant.

Dispute Process

36. Disputes will be limited to calculation of the performance fees paid. Within thirty (30) days of the initial mailing of the Plan Notice, the Fund Administrator must receive a written communication detailing any dispute along with any supporting documentation. The Fund Administrator will investigate the dispute, and such investigation will include a review of the written dispute as well as any supporting documentation.

Final Determination Notices

37. Within sixty (60) days of the initial mailing of the Plan Notices, the Fund

Administrator will send a Final Determination Notice to (a) any Preliminary Claimant who timely submitted a written dispute as described in paragraph 36, notifying the Preliminary Claimant of his resolution of the dispute; and (b) those Preliminary Claimants who have not responded to the Plan Notice, as described in paragraph 35, except for those whose Plan Notice were returned as undeliverable, notifying the Preliminary Claimant that he, she, or it has been deemed an Unresponsive Preliminary Claimant.

Distribution Methodology

38. The Fund Administrator will calculate each Preliminary Claimant's Recognized Loss in accordance with the Plan of Allocation. All Preliminary Claimants who are determined to have a Recognized Loss, and who are not deemed an Excluded Party or an Unresponsive Preliminary Claimant will be deemed an Eligible Claimant. All Eligible Claimants whose distribution amount is equal to or greater than \$10.00, as calculated in accordance with the Plan of Allocation, will be deemed a Payee and receive a Distribution Payment.

Establishment of a Reserve

39. Before determining the amount of funds available for distribution and calculating each Payee's Distribution Payment, the Fund Administrator, in conjunction with the Tax Administrator, will establish a reserve to pay Administrative Costs and to accommodate any unexpected expenditures (the "Reserve").

40. After all Distribution Payments are made and Administrative Costs paid, any remaining amounts in the Reserve will become part of the Residual described in paragraph 53.

Preparation of the Payment File

41. Within seventy-five (75) days of Commission approval of the Plan, the Fund Administrator will compile the Payee information including the name, address, calculated Recognized Loss, and the amount of the Distribution Payment for all Payees (the "Payee List"),

Distribution of the Fair Fund

42. Pursuant to Rule 1101(b)(6) of the Commission's Rules,⁵ 17 C.F.R. § 201.1101(b)(6), the Commission staff will obtain an order from the Commission directing the disbursement of funds from the Net Available Fair Fund for distribution to Payees in accordance with the Payee List. The U.S. Treasury will mail checks or electronically transfer funds to each Payee as instructed by the Fund Administrator in accordance with the Payee List.

43. All checks will bear a stale date of one (1) year from the date of issuance. Checks that are not negotiated by the stale date will be voided, and the U.S. Treasury will be instructed to stop payment on those checks. A Payee's claim will be extinguished if he, she, or it fails to

⁵ 17 C.F.R. § 201.1101(b)(6)

negotiate his, her or its check by the stale date, and the funds will remain in the Fair Fund, except as provided in paragraph 54.

44. All Distribution Payments will be preceded or accompanied by a communication that includes, as appropriate: (a) a statement characterizing the distribution; (b) a statement that the tax treatment of the distribution is the responsibility of each Payee and that the Payee should consult his, her or its tax advisor for advice regarding the tax treatment of the distribution; however, any backup withholding required under IRC § 3406(a) and the regulations promulgated thereunder, or withholding required with respect to nonresident aliens (“NRAs”) under Chapter 3 of the IRC, or FATCA-subject Payees under Chapter 4 of the IRC, will be withheld as required from the Distribution Payment and remitted to the Internal Revenue Service on the Payee’s behalf; (c) a statement that checks will be void and cannot be reissued after one (1) year from the date the original check was issued; and (d) contact information for the Fund Administrator for questions regarding the Distribution Payment. The letter or other mailings to Payees characterizing a Distribution Payment will be prepared by the Tax Administrator and provided to the Commission staff for review and approval.

45. All Distribution Payments, either on their face or in the accompanying mailing, will clearly indicate that the money is being distributed from the Fair Fund established by the Commission to compensate investors for harm as a result of securities law violations.

Post Distribution, Handling of Returned or Uncashed Checks, and Reissues

46. The Fund Administrator shall use its best efforts to make use of commercially available resources and other reasonably appropriate means to locate all Payees whose checks are returned to the Fund Administrator as “undeliverable.” If new address information becomes available, the Fund Administrator will repackage the distribution check and send it to the new address. If, within sixty (60) days after the initial mailing of the distribution check, new address information for the Payee is not available, or if the distribution check is returned again, the Fund Administrator will void the distribution check, and, in his discretion, may remove such Payee from the distribution and the allocated Distribution Payment will remain in the Fair Fund for distribution, if feasible, to the remaining Payees.

47. The Fund Administrator will reissue checks or electronic payments to Payees upon the receipt of a valid, written request from the Payee if prior to the initial stale date. In cases where a Payee is unable to endorse a Distribution Payment check as written (*e.g.*, name changes, IRA custodian changes, or recipient is deceased) and the Payee or a lawful representative requests the reissuance of a Distribution Payment check in a different name, the Fund Administrator will request, and must receive, documentation to support the requested change. The Fund Administrator will review the documentation to determine the authenticity and propriety of the change request. If, in the discretion of the Fund Administrator, such change request is properly documented, the Fund Administrator will issue an appropriately redrawn Distribution Payment to the requesting party. Reissued checks will be void after one (1) year from issuance.

48. The Fund Administrator will maintain information about uncashed checks and any returned items due to non-delivery, insufficient addresses, and/or other deficiencies. The Fund Administrator is responsible for researching and reconciling errors and reissuing payments when possible. The Fund Administrator is also responsible for accounting for all payments. The amount of all uncashed and undelivered payments will continue to be held in the Fair Fund.

49. The Fund Administrator will make and document its best efforts to contact Payees to follow-up on the status of uncashed distribution checks over \$100 (other than those returned as “undeliverable”) and take appropriate action to follow-up on the status of uncashed checks at the request of Commission staff. The Fund Administrator may reissue such checks, subject to the time limits detailed herein.

50. At the discretion of the Fund Administrator, certain costs that were not factored into the Reserve, such as bank fees for the return of a payment, may reduce the Payee’s Distribution Payment. In such situations, the Fund Administrator will immediately notify the Tax Administrator of the reduction in the Distribution Payment.

Receipt of Additional Funds

51. Should any additional funds be received pursuant to Commission or Court order, agreement, or otherwise, prior to the Commission’s termination of the Fair Fund, such funds will be added to the Fair Fund and distributed, if feasible, in accordance with the Plan, pursuant to the Commission’s Rules.

Disposition of Undistributed Funds

52. If funds remain following the initial distribution and payment of all outstanding Administrative Costs, the Fund Administrator, in consultation with the Commission staff, may seek subsequent distribution(s) of any available remaining funds, pursuant to the Commission’s Rules. All subsequent distributions shall be made in a manner that is consistent with this Plan.

53. A residual within the Fair Fund will be established for any amounts remaining after the final disbursement to Payees from the Fair Fund and the payment of all Administrative Costs (the “Residual”). The Residual may include funds from, among other things, amounts remaining in the Reserve, distribution checks that have not been cashed, checks or electronic payments that were not delivered or were returned to the Commission, and tax refunds for overpayment of taxes or for waiver of IRS penalties.

54. All funds remaining in the Residual that are infeasible to distribute to investors will be transferred to the U.S. Treasury, subject to Section 21F(g)(3) of the Securities Exchange Act of 1934 (the “Exchange Act”), after the final accounting is approved by the Commission. Returning such money to the Respondents would be inconsistent with the equitable principle that no Person should profit from his wrongdoing. Therefore, in these circumstances distributing disgorged funds to the U.S. Treasury is the most equitable alternative.

Administrative Costs

55. All Administrative Costs will be paid from the Fair Fund in accordance with the Commission's Rules.

Accountings

56. When all funds have been disbursed, except for the Residual described in paragraph 53 of the Plan, the Fund Administrator will submit a final accounting pursuant to Rule 1105(f) of the Commission's Rules,⁶ for the Commission's approval prior to termination of the Fair Fund and discharge of the Fund Administrator. Since the funds are being held in a Commission-designated account at the U.S. Treasury and the Fund Administrator is a Commission employee, no interim accountings will be made.

Termination of the Fair Fund

57. The Fair Fund will be eligible for termination and the Fund Administrator will be eligible for discharge after all of the following have occurred (a) a final accounting, in a standard accounting format provided by the Commission staff, has been submitted by the Fund Administrator and approved by the Commission; and (b) all Administrative Costs have been paid. Once the Commission has approved the final accounting, the Commission staff will seek an order from the Commission authorizing: (a) the transfer of the Residual that is infeasible to return to investors, and any amounts returned to the Fair Fund in the future that is infeasible to return to investors, to the general fund of the U.S. Treasury, subject to Section 21F(g)(3) of the Exchange Act; (b) discharge of the Fund Administrator; and (c) termination of the Fair Fund.

⁶ 17 C.F.R. § 201.1105(f)

Exhibit A

PLAN OF ALLOCATION

This Plan of Allocation is designed to compensate harmed investors who paid performance fees to the Respondents for management of funds in the Geluk Fund and incurred related investment losses as a result of the Respondents' fraudulent conduct between January 1, 2018, and December 31, 2018, inclusive (the "Relevant Period"). Investors who did not pay performance fees to the Respondents in connection with Respondents' management of their investments in the Geluk Fund are not eligible to recover under this Plan. Based upon records obtained by the Commission during its investigation, the Fund Administrator has identified those investors, or their lawful successors, who paid performance fees to the Respondents for management of funds invested in the Geluk Fund during the Relevant Period (the "Preliminary Claimants").

The Fund Administrator will calculate each Preliminary Claimant's loss ("Recognized Loss") as follows:

- A. Compute the loss from fees ("Loss from Fees") for each Preliminary Claimant:
 1. Determine the amount of performance fees paid to the Respondents for management of funds invested in the Geluk Fund ("Fees Paid");
 2. Calculate the applicable interest ("Reasonable Interest") on the Fees Paid using the Short-term Applicable Federal Rate plus three percent (3%), compounded quarterly from the end of the Relevant Period through the approximate date of the disbursement of the funds; and
 3. Combine the Fees Paid and Reasonable Interest to determine the Loss from Fees.
- B. Compute the loss recovery ("Loss Recovery") for each Preliminary Claimant:
 1. Determine the amount paid into the Geluk Fund, by summing all investments made into the Geluk Fund ("Payments In");
 2. Determine the amount received from the Geluk Fund, by summing all monetary payments received ("Payments Out");
 3. Calculate each Eligible Claimant's Loss Recovery by netting Payments In against Payments Out. If the Loss Recovery is less than zero, reflecting a gain, it will be deemed to be zero, and the Loss Recovery is \$0.00;
 4. Calculate each Preliminary Claimant's Pro Rata Percentage as the ratio of the Preliminary Claimant's Loss Recovery to the sum of Loss Recovery of all Preliminary Claimants; and

5. Subtract the sum of the Losses from Fees from the Net Available Fair Fund and multiply this amount by each Preliminary Claimant's Pro Rata Percentage.
- C. The sum of a Preliminary Claimant's Loss from Fees and Loss Recovery will be totaled to calculate their Recognized Loss.

To avoid payment of a windfall, the Recognized Loss will be reduced by the amount of any compensation for the loss that resulted from the conduct described in the Order that was received from another source (e.g., class action settlement), to the extent known by the Fund Administrator.

Any Preliminary Claimant who suffered a Recognized Loss pursuant to this Plan of Allocation, and who is not an Excluded Party or an Unresponsive Preliminary Claimant, as defined in the Plan, will be deemed an Eligible Claimant.

Additional Provisions

Allocation of Funds: The Net Available Fair Fund, as defined in the Plan, exceeds the sum of Recognized Losses of all Eligible Claimants, so each Eligible Claimant's distribution amount will equal his, her or its Recognized Loss, subject to the "Minimum Distribution Amount."

Minimum Distribution Amount: The Minimum Distribution Amount will be \$10.00. If an Eligible Claimant's distribution amount is less than the Minimum Distribution Amount, that Eligible Claimant will be deemed ineligible to receive a Distribution Payment.

Payee: An Eligible Claimant whose distribution amount equals or exceeds the Minimum Distribution Amount will be deemed a Payee and receive a Distribution Payment equal to his, her, or its Recognized Loss. In no event will a Payee receive from the Fair Fund more than his, her, or its Recognized Loss.