

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING
File No. 3-16757

In the Matter of :
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 :
 Citigroup Alternative Investments LLC :
 and Citigroup Global Markets Inc., :
 :
 Respondents. :
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PROPOSED PLAN OF DISTRIBUTION

A. Introduction

1. On August 17, 2015 the Securities and Exchange Commission (“SEC” or “Commission”) issued an Order Instituting Administrative and Cease-and-Desist Proceedings Pursuant to Section 8A of the Securities Act of 1933, Section 15(b)(4) of the Securities Exchange Act of 1934, and Sections 203(e) and 203(k) of the Investment Advisers Act of 1940, Making Findings, and Imposing Remedial Sanctions and a Cease-and-Desist Order (“Order”)¹ against Citigroup Alternative Investments LLC (“CAI”) and Citigroup Global Markets Inc. (“CGMI”) (together, “Respondents”).

2. In the Order, the Commission found that Respondents made material misstatements and omissions between 2002 and 2007 concerning the offer and sale of securities in the two now-defunct hedge funds named ASTA and MAT funds (“ASTA/MAT”) and Falcon Strategies funds (“Falcon”), comprised of the following nine separate underlying funds: Falcon

¹ Securities Act Rel. No. 9893 (Aug. 17, 2015).

2, Falcon 2b, Falcon 3, Falcon 4, Falcon Plus, ASTA/MAT, ASTA/MAT 2, ASTA/MAT 3 and ASTA/MAT 5 (collectively, the “Potentially Eligible Funds”). From 2002 through 2008, Respondents misrepresented the funds’ risks and performance to advisory clients. Respondents raised approximately \$2.898 billion from approximately 4,000 investors in ASTA/MAT and Falcon. In 2008, both funds collapsed resulting in billions of dollars in losses. As a result of this conduct, the Commission found that the Respondents willfully violated Sections 17(a)(2) and 17(a)(3) of the Securities Act of 1933, which prohibit fraudulent conduct in the offer or sale of securities. In addition, CGMI willfully violated Section 206(2) of the Investment Advisers Act of 1940 (“Advisers Act”) and CAI violated Section 206(4) of the Advisers Act and Rules 206(4)-7 and 8 promulgated thereunder.

3. Pursuant to the Order, Respondents paid disgorgement of \$139,950,239 and prejudgment interest of \$39,612,089. A fund (the “Distribution Fund”) has been created for distribution to harmed investors and consists of the \$179,562,328 paid by Respondents, as well as net accrued interest.

4. Respondents have provided capital investment information for each of the nine Potentially Eligible Funds and for each investor in those funds. From their records, Respondents also provided fee payment data and information regarding repayment to investors at the fund level for each of the Potentially Eligible Funds.

5. The purpose of this Proposed Plan of Distribution (“Plan”) is to refund a portion of the investors’ losses between 2002 and 2008 (the “Recovery Period”). The distribution methodology allocates the Net Available Distribution Fund (as defined below) to the nine Potentially Eligible Funds in a manner that attempts to equalize recovery of losses across those

nine Funds. The methodology further allocates the distributions among harmed investors in proportion to their Investment Amounts within each Eligible Fund.

6. Pursuant to the Order, Respondents will pay all reasonable administrative costs and expenses of the distribution, including the fees and expenses of the Tax Administrator and Fund Administrator. The Tax Administrator and Fund Administrator will submit invoices directly to Respondents for payment.

7. The Commission has custody of the Distribution Fund and shall retain control of its assets. The Distribution Fund is currently deposited in an interest bearing account at the United States Department of the Treasury (“Treasury”), where it will be held until a disbursement occurs. It is not anticipated that the Distribution Fund will receive additional funds, other than accumulated interest and earnings from investments.

8. The Commission appointed Damasco & Associates LLP (“Damasco”) as the Tax Administrator on October 29, 2015.² Damasco is now known as Miller Kaplan Arase LLP, and includes its partners, Jude and Julia Damasco.³

9. In an order dated April 14, 2016, the Commission appointed Garden City Group, LLC (“GCG”) as the Fund Administrator and set GCG’s bond at \$179,562,328, as provided for by Rule 1105(a) and 1105(c) of the Commission’s Rules on Fair Fund and Disgorgement Plans (the “Rules”), 17 C.F.R. §§ 201.1105(a) and 201.1105(c). Any costs or premiums associated with the bond will be paid by Respondents.

10. This Plan sets forth the methods and procedures for distributing the Distribution Fund and is subject to approval by the Commission.

² See Order Appointing Tax Administrator, Exchange Act Rel. No. 76312 (Oct. 29, 2015).

³ See In the Matter of Certain Disgorgement and Fair Funds in Administrative Proceedings: Notice of Name Change of Appointed Tax Administrator, Exchange Act Rel. No. 81064 (Jun. 30, 2017).

B. Definitions

As used herein, the following definitions shall apply:

11. “Commission” or “SEC” shall mean the Securities and Exchange Commission.
12. “Days” shall mean calendar days, unless specified otherwise.
13. “De Minimis Amount” is \$25.00. No Eligible Investor shall receive a Distribution Payment unless it is equal to or greater than \$25.00.
14. “Distribution Fund” shall refer to all proceeds paid by the Respondents to comply with the Order, including \$139,950,239 in disgorgement and \$39,612,089 in prejudgment interest, plus accumulated net interest thereon.
15. “Distribution Fund Allocation” shall mean the portion of the Net Available Distribution Fund allocated to each Eligible Fund for distribution to Eligible Investors.
16. “Distribution Payment” shall mean the disbursement to Eligible Investors of his, her or its portion of the Net Available Distribution Fund calculated pursuant to the Plan of Allocation.
17. “Distribution Plan” or “Plan” shall mean this distribution plan, in the form approved by the Commission.
18. “Eligible Funds” shall mean the six funds that have a Recovery Ratio that does not exceed the Equal Recovery Ratio, including: Falcon 2, Falcon 2b, Falcon 3, Falcon 4, Falcon Plus and ASTA/MAT 5.
19. “Eligible Funds Recovery Ratio” shall mean the Recovery Amount per dollar of Total Investor Outlays for the six funds receiving a Distribution Fund Allocation. The Eligible Funds Recovery Ratio is \$0.57 per \$1.00 of Total Investor Outlays.

20. “Eligible Investor” shall mean a person who invested in any of the Eligible Funds during the Recovery Period and who is not an Excluded Party.

21. “Equal Recovery Ratio” shall mean the sum of the Total Payments to Investors across all Potentially Eligible Funds plus the Net Available Distribution Fund divided by the Total Investor Outlays of all Potentially Eligible Funds, or \$0.69 per \$1.00 of the outlays.

22. “Excluded Parties” shall mean Respondents and all other entities or individuals who (a) are or have at any time been a parent, subsidiary, affiliate, partner, or member of Respondents; (b) exercised control of or were controlled by the Respondents; or (c) during the period 2002 to the present, were employed by, or served as officers or directors, or were members of the Respondents or any other entity that is deemed to be an Excluded Party.

23. “Fund Administrator” shall mean GCG, the firm appointed by the Commission, pursuant to Rules 1105(a) and 1105(c) of the Rules, to administer the Plan.

24. “Investment Amount” shall mean the dollar amounts invested by an investor in any one of the nine Potentially Eligible Funds. Respondents provided the Fund Administrator with a list of persons identified as the investors in the Potentially Eligible Funds and their Investment Amounts.

25. “Net Available Distribution Fund” shall mean the Distribution Fund less any reserve established for taxes that may be assessed against the Distribution Fund. This amount is estimated to be \$181,155,501 at the time of distribution.

26. “Plan of Allocation” refers to Exhibit A to this Plan, which describes the methodology used to calculate the Distribution Payments for investors in the Potentially Eligible Funds.

27. “Potentially Eligible Funds” shall mean the nine underlying funds of the ASTA, MAT and Falcon Strategies funds: Falcon 2, Falcon 2b, Falcon 3, Falcon 4, Falcon Plus, ASTA/MAT, ASTA/MAT 2, ASTA/MAT 3 and ASTA/MAT 5.

28. “Recovery Amount” shall mean, for a Potentially Eligible Fund, the Total Payments to Investors within that Potentially Eligible Fund plus its Distribution Fund Allocation.

29. “Recovery Period” shall mean 2002 through and including 2008.

30. “Recovery Ratio” shall mean, for a Potentially Eligible Fund, that fund’s Total Payment to Investors divided by its Total Investor Outlays.

31. “Total Fees Paid” shall mean, for each Potentially Eligible Fund, the aggregate amount of advisory fees paid to the Respondents by the investors with respect to that fund during the Recovery Period, based on information provided by the Respondents.

32. “Total Investment Amount” shall mean, for each Potentially Eligible Fund, the aggregate dollar amounts invested by investors in that fund. Respondents provided the Fund Administrator with a list of the investors in the Potentially Eligible Funds and their Investment Amounts.

33. “Total Investor Outlays” shall mean, for each Potentially Eligible Fund, the sum of the Total Investment Amounts plus Total Fees Paid for that fund.

34. “Total Payments to Investors” shall mean, for each Potentially Eligible Fund, the aggregation of all payments made to that fund’s investors either directly from the applicable Potentially Eligible Fund or by the Respondents in the form of (a) arbitration awards and settlements (collectively, “Settlements”), (b) distributions from the Potentially Eligible Funds, (c) Respondents’ reallocation of investment gains, (d) liquidation amounts, (e) redemptions, (f)

tender offers and tender offer premiums (collectively, “Tender Offers”) and (g) other payments, based on information provided by the Respondents.⁴

35. “Tax Administrator” shall mean Miller Kaplan Arase LLP, including its partners, Jude Damasco and Julia Damasco, the Tax Administrator appointed by the Commission.

C. Allocation of the Distribution Fund Among Eligible Investors

36. There will be no notice, other than the notice accompanying the Distribution Payments, and no claims process in connection with the Distribution Payments. The Distribution Payments will be computed by the Fund Administrator and Commission staff as set forth in the Plan and Plan of Allocation, based on data provided by the Respondents, and will be distributed to Eligible Claimants, to the extent that the distribution amount meets or exceeds the De Minimis Amount.

D. Administration of the Distribution Fund

General Administration Provisions

37. The Fund Administrator shall oversee the distribution as provided in this Plan. Respondents provided the Fund Administrator with a list of persons identified as investors in the Potentially Eligible Funds and their Investment Amounts during the Recovery Period. In connection therewith, the Fund Administrator will review the data provided by Respondents and calculate each Eligible Investor’s distribution pursuant to the Plan of Allocation.

38. A person who received or held an investment in an Eligible Fund as a result of a

⁴ More specifically, investors in the Potentially Eligible Funds received the following sources of payments from the Funds or the Respondents:

- Falcon 2, Falcon 2b, Falcon 3: Settlements, distributions, tender offers, and other payments
- Falcon 4: Settlements, tender offers, and other payments
- Falcon Plus: Settlements and other payments
- ASTA/MAT, ASTA/MAT 2, ASTA/MAT 3: Settlements, distributions, reallocations, liquidations, and redemptions
- ASTA/MAT 5: Settlements, distributions, reallocations, liquidations, redemptions, and tender offers

gift, transfer, inheritance, devise or operation of law shall be eligible to participate in the distribution of the Distribution Fund only to the extent the particular donor or decedent as the actual investor would have been eligible. The recipient of an investment in an Eligible Fund during the Recovery Period by gift, transfer, inheritance, devise, or operation of law shall not otherwise be eligible to participate in the distribution with respect to such securities, and shall not be deemed the assignee of any claim relating to the purchase of such securities unless specifically so provided in the instrument of gift or assignment.

39. The Fund Administrator shall take reasonable and appropriate steps to distribute the Distribution Fund according to this Plan and to effectuate the general purposes of the Plan. The Fund Administrator will inform Commission staff of any changes needed to this Plan. Upon approval by Commission staff, the Fund Administrator may implement immaterial changes to this Plan to effectuate its general purposes. If a change is deemed to be material by Commission staff, Commission approval is required by amending this Plan prior to implementation of the change.

40. Upon request of the Fund Administrator, for good cause shown, Commission staff may extend any procedural deadline contained in this Plan.

41. All fees and expenses of the Fund Administrator associated with the administration of the distribution will be paid by the Respondents as provided for in the Order. The Fund Administrator will provide Commission staff with duplicate copies of all invoices submitted to Respondents.

Identification of Eligible Investors

42. The Respondents have identified and provided the Fund Administrator with a list of all investors in the Potentially Eligible Funds, which they believe is complete and accurate.

43. Following the entry by the Commission of its order approving this Plan, the Fund Administrator shall:

- a. Create a case-specific database for Eligible Investors and their investment information;
- b. Run a National Change of Address search to retrieve updated addresses for all records in the new database, thereby trying to ensure updated mailing information for Eligible Investors;
- c. Provide notice to Eligible Investors by (i) mailing by United States First Class Mail a notice and check or (ii) emailing a notice to Eligible Investors receiving electronic payments (the foregoing are the only notices that will be sent by the Fund Administrator);
- d. Establish a specific website constructed for the administration of the Distribution Fund, which will post information and relevant documents;
- e. Provide a copy of the Plan to Commission staff for posting to the Information for Harmed Investors page of SEC.gov and establishing a link to the Distribution Fund's website; and
- f. Establish a toll-free telephone call-in number by which Eligible Investors can obtain information about the Distribution Fund.

Provisions for the Tax Administrator

44. The Distribution Fund constitutes a Qualified Settlement Fund ("QSF") under Section 468B(g) of the Internal Revenue Code, 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. Timely requesting funds necessary for the timely payment of all applicable taxes, the timely 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 required for distributions from the Distribution Fund.

45. The Fund Administrator shall cooperate with the Tax Administrator in providing any information necessary to ensure income tax compliance.

46. All taxes will be paid from the Distribution Fund, subject to the review and approval of Commission staff.

Procedures for Distributing the Distribution Fund

47. The Fund Administrator shall distribute the Net Available Distribution Fund to Eligible Investors pursuant to this Plan.

48. The Fund Administrator shall prepare a final payee list, which will be comprised of all Eligible Investors and their Distribution Payment amounts (“Final Payee List”). The Fund Administrator shall provide the Final Payee List to the Commission staff with a reasonable assurance letter as to the completeness and accuracy of the list. The Final Payee List shall, upon request, be made available to the Commission. Commission staff will obtain authorization from the Commission, pursuant to Rule 1101(b)(6) of the Rules, to disburse the funds needed for distribution pursuant to the Plan.

49. The total amount required for the distribution shall be transferred from the account at the Treasury to the escrow account established by the Fund Administrator.

50. Prior to disbursement of the Distribution Fund, the Fund Administrator will

establish account(s), as described below, at a United States commercial bank (the “Bank”) that is acceptable to the Commission staff.

51. Pursuant to an escrow agreement (the “Escrow Agreement”) to be provided by Commission staff, the Fund Administrator and Bank shall establish an escrow account in the name of and bearing the Employer Identification Number (“EIN”) of the Distribution Fund, as custodian for the distributees of the Distribution Plan. The name of each account shall be in the following form: “Citigroup Distribution Fund,” as custodian for the benefit of investors allocated a distribution from the Distribution Plan in *In the Matter of Citigroup Alternative Investments LLC and Citigroup Global Markets Inc.*, (the “Citigroup Distribution Fund Escrow Account” or “Escrow Account”). The Fund Administrator and Bank shall also establish a separate deposit account (*e.g.*, controlled distribution account, managed distribution account, linked checking and investment account) titled as set forth above for the purpose of funding payments to be distributed to investors by the Fund Administrator pursuant to the Distribution Plan (“Deposit Account”).

52. During the term of the Escrow Agreement, if invested, the Escrow Account shall be invested and reinvested in short-term Treasury securities backed by the full faith and credit of the United States Government or an agency thereof, of a type and term necessary to meet the cash liquidity requirements for payments to Eligible Investors and tax obligations, including investment or reinvestment in a bank account insured by the Federal Deposit Insurance Corporation (“FDIC”) up to the guaranteed FDIC limit, or in money market mutual funds registered under the Investment Company Act of 1940 that invest 100% of their assets in direct obligations of the United States government. The Fund Administrator shall provide duplicate original bank and/or investment statements on any accounts established by the Fund

Administrator to the Tax Administrator on a monthly basis and shall assist the Tax Administrator in obtaining mid-cycle statements, as necessary.

53. The Fund Administrator shall deposit or invest funds in the Escrow and Deposit Accounts so as to result in the maximum reasonable net return, taking into account the safety of such deposits or investments. In consultation with the Commission staff, the Fund Administrator shall work with the Bank on an ongoing basis to determine an allocation of funds between the Escrow and the Deposit accounts.

54. All funds shall remain in the Escrow Account, separate from bank assets, pursuant to the Escrow Agreement until needed to satisfy an electronic transfer of funds initiated by the Fund Administrator or to satisfy a presented check. All Distribution Fund checks presented for payment will be subject to “positive pay” controls before being honored by the Bank, and all such checks issued to Eligible Investors by the Fund Administrator shall bear a stale date of ninety (90) days. Accordingly, checks that are not negotiated within this period shall be voided and the issuing financial institution shall be instructed to stop payment on those checks. All such funds will be returned to the Distribution Fund. If the Eligible Investor submits a valid, written request for reissue during the 90 days following the issuance of the check, such reissued checks will be void after thirty (30) days from issuance and in no event will a check be reissued after ninety (90) days post-distribution without permission from Commission staff.

55. The Fund Administrator shall use all reasonable commercially available resources to locate all Eligible Investors whose checks are returned to the Fund Administrator as undeliverable by the U.S. Postal Service.

56. All distribution payments shall 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 recipient and that the recipient should consult his or her tax advisor for advice regarding the tax treatment of the distribution;
- c. A statement that checks will be void after ninety (90) days; and
- d. The name of a person or entity to contact, if the Eligible Investor has any questions regarding the distribution.

Any such communication shall be submitted to the Commission staff and the Tax Administrator for review and approval. The Distribution Fund distribution payments, on their face, or the accompanying mailing shall clearly indicate that the money is being distributed from a Distribution Fund established by the SEC to compensate investors for harm as a result of their investment in the Eligible Funds.

Liability

57. The receipt and acceptance of a distribution by an Eligible Investor is not intended to be a release of an Eligible Investor's rights and claims against any party.

Returned or Uncashed Checks

58. The Fund Administrator shall reissue checks to Eligible Investors, upon the receipt of a valid, written request from the Eligible Investor. Such reissued checks will be void after thirty (30) days from issuance and in no event will a check be reissued after ninety (90) days post-distribution without Commission staff permission.

59. The Fund Administrator will perform advanced address searches for those checks that are returned as undeliverable, to the extent such search is feasible, and will reissue such checks so long as the new address is received within ninety (90) days post-distribution.

60. One hundred and twenty (120) days following the distribution, all approved final fees and expenses shall be paid, all outstanding checks shall be voided, and any remaining funds shall be paid to the Commission for transfer to the Treasury upon receipt of written instructions by the Fund Administrator.

Residual Funds and Final Accounting

61. After payments have been accepted and cashed, any amounts remaining in the Distribution Fund will constitute the Distribution Fund residual (“Residual”). The Residual may include payments that have not been cashed or payments that were not delivered or from funds returned to the Fund Administrator. In the event there is a residual of undistributed Distribution Fund funds that in the Commission staff’s view would warrant consideration of an additional disbursement from the Distribution Fund, the Commission may exercise its discretion to enter an order for an additional distribution to investors who cashed their distribution checks or received an electronic payment in the initial disbursement of the Distribution Fund and, remain eligible to receive additional funds. Otherwise, the Residual will be transferred to the Treasury after the final accounting is approved by the Commission.

62. Upon completion of the distribution of the Distribution Fund, the Fund Administrator will make arrangements with the Respondents for the final payment of taxes and filing the final tax returns and the Fund Administrator will provide a final accounting to Commission staff for submission to the Commission. The Distribution Fund will be eligible for termination, and the Fund Administrator will be discharged, after all of the following have occurred: (a) a final accounting, in the accounting format provided by the Commission staff, has been submitted by the Fund Administrator to Commission staff for approval, and the final accounting has been approved by the Commission; (b) all income taxes and other fees due and

owing by the Distribution Fund have been paid by the Respondents; (c) all taxes withheld from distributions to Eligible Investors have been tendered to the appropriate tax agencies; (d) all expenses associated with the administration of the Distribution Fund have been paid by the Respondents; and (e) any amount remaining in the Distribution Fund has been received by the Commission. When the Commission has approved the final accounting, the Commission staff will arrange for the transfer of any amount remaining in the Distribution Fund to the Treasury, and will seek an order from the Commission to approve the termination of the Distribution Fund and discharge the Fund Administrator.

63. Once the funds, if any, are returned to the Commission, no additional payments shall be made whatsoever in order to allow the full and final distribution of the Distribution Fund.

Filing of Reports and Accountings

64. The Fund Administrator shall provide Commission staff with a progress report and a quarterly account statement in a format to be provided by the Commission staff, within forty-five (45) days of the entry of this Distribution Plan, and shall provide to Commission staff additional reports and quarterly account statements within ten (10) days after the end of every calendar quarter thereafter.

65. Such progress reports shall inform Commission staff of the activities and status of the Distribution Fund during the requested reporting period, and shall specify, at a minimum, the location of the account(s) comprising the Distribution Fund, including, among other things, an interim accounting of all monies in the Distribution Fund as of the most recent month-end, including all monies received, earned, spent, and distributed in connection with the administration of the Distribution Plan, the value of those accounts, all monies earned or

received into these accounts, funds distributed to Eligible Investors under this Distribution Plan, and any monies expended from the Distribution Fund to satisfy any fees, costs, taxes, and other expenses incurred in the implementation of this Distribution Plan. The final report shall include, among other things, a final accounting of all monies received, earned, spent, and distributed in connection with the administration of the Distribution Plan.

66. The Fund Administrator will maintain all documents, including documents in any media, for six (6) years after the transfer of any remaining funds to the Commission. Pursuant to Commission direction, the Fund Administrator will either turn over to the Commission or destroy all documents six (6) years after the approval of the final accounting.

67. Upon completion of the distribution of the Distribution Fund and when a final accounting by the Tax Administrator has been requested, the Fund Administrator will shut down the toll-free number and website established specifically for the administration of the Distribution Fund transfer any remaining undistributed funds to the Commission.

Other Rights and Powers

68. The Fund Administrator, and/or each of its designees, agents and assistants, shall be entitled to rely on all outstanding rules of law; and any orders issued by the Commission, the Secretary by delegated authority or an Administrative Law Judge; and/or any investor information provided by Commission staff.

69. The Fund Administrator is authorized to enter into agreements with financial institutions (“Institutions”) as may be appropriate or necessary in the administration of the Distribution Fund, provided that such Institutions are not excluded pursuant to other provisions of this Distribution Plan. In connection with such agreements, the Institutions shall be deemed to be agents of the Fund Administrator under this Distribution Plan.

70. The assets of the Distribution Fund are subject to the continuing jurisdiction and control of the Commission, including all proceedings with respect to the administration, processing, and calculations of the distribution payments and the determination of all related controversies.

71. The Commission reserves its right to amend this Plan from time to time, and retains jurisdiction and control over this matter for the purpose of amendment and any and all other matters that may arise under or relate to this Plan.

E. Notice and Comment Period

72. The Notice of the Proposed Plan of Distribution and Opportunity for Comment (“Comment Notice”) will be published in the SEC Docket and on the Commission’s website at <http://www.sec.gov/litigation/fairfundlist.htm>. Any person wishing to comment on the Plan must do so in writing by submitting their comments to the Commission within thirty (30) days of the date of the Comment Notice: (a) to the Office of the Secretary, United States Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090; (b) by using the Commission’s Internet comment form (www.sec.gov/litigation/admin.shtml); or (c) by sending an email to rule-comments@sec.gov. Comments submitted by email or via the Commission’s website should include “Administrative Proceeding File Number 3-16757” in the subject line. Comments received will be available to the public. Persons should only submit comments that they wish to make publicly available.

EXHIBIT A
PLAN OF ALLOCATION

An Eligible Investor's Distribution Payment will be calculated as set forth below.

1. The Distribution Fund Allocation will be each Eligible Fund's portion of the Net Available Distribution Fund to be distributed to the Eligible Investors. In other words, there will be a separate pool of distribution funds allocated to each Eligible Fund. The allocation to each Eligible Fund is based on whether the fund has realized a Recovery Ratio equal to or greater than the Equal Recovery Ratio, as set forth in Table 1 below. The Equal Recovery Ratio is determined by dividing the sum of Total Payments to Investors across all nine Potentially Eligible Funds (Column 4 in Table 1 below, \$2,073,415,561) and the Net Available Distribution Fund (\$181,155,501) by the sum of the Total Investor Outlays across all nine Potentially Eligible Funds (Column 3, \$3,275,401,069).⁵ Accordingly, the Equal Recovery Ratio is a quantification of the amount each fund would have received if the Respondents, in addressing claims by harmed investors, had compensated every fund *pro rata* based on each fund's Total Investor Outlays. The Equal Recovery Ratio is \$0.69 per \$1.00 of Total Investor Outlays.

2. Three funds received Total Payments to Investors that result in a Recovery Ratio in excess of the Equal Recovery Ratio: ASTA/MAT, ASTA/MAT 2 and ASTA/MAT 3. *See* Column 5 in Table 1 below. Because these three funds have already been paid more than the amount they would have received using the Equal Recovery Ratio, their investors will not recover further from the Net Available Distribution Fund. Therefore, each of the three funds' Distribution

⁵ Respondents provided capital investment information for each of the nine Potentially Eligible Funds and for each investor in those funds. Respondents also provided fee payment data and information regarding repayments to investors at the fund level for each of the Potentially Eligible Funds.

Fund Allocation will be zero and, to the extent investors invested in these three funds, they are not eligible for a distribution.

Table 1

Potentially Eligible Fund	Total Investment Amount [1]	Total Fees Paid [2]	Total Investor Outlays [3] = [1] + [2]	Total Payments to Investors [4]	Recovery Ratio [5] = [4] / [3]
Falcon 2	\$437,228,704	\$24,932,911	\$462,161,615	\$203,043,407	\$0.44
Falcon 2b	\$348,612,015	\$8,925,999	\$357,538,014	\$181,104,935	\$0.51
Falcon 3	\$193,091,896	\$6,154,753	\$199,246,649	\$102,871,590	\$0.52
Falcon 4	\$70,650,000	\$573,557	\$71,223,557	\$39,972,790	\$0.56
Falcon Plus	\$28,500,000	\$916,557	\$29,416,557	\$8,593,172	\$0.29
ASTA/MAT	\$195,996,431	\$30,222,492	\$226,218,923	\$229,510,877	\$1.01*
ASTA/MAT 2	\$418,837,715	\$66,614,622	\$485,452,337	\$427,149,779	\$0.88*
ASTA/MAT 3	\$573,201,907	\$53,311,368	\$626,513,275	\$501,298,909	\$0.80*
ASTA/MAT 5	\$796,772,105	\$20,858,037	\$817,630,142	\$379,870,102	\$0.46
Sum	\$3,062,890,773	\$212,510,296	\$3,275,401,069	\$2,073,415,561	

*Funds with Recovery Ratios that exceed the Equal Recovery Ratio of \$0.69.

3. For the remaining six Eligible Funds, the Net Available Distribution Fund will be allocated, as set forth in Table 2 below, in such a way as to equalize the recovery per dollar of losses across the funds. This Eligible Funds Recovery Ratio is determined by dividing the sum of the Total Payments to Investors across the six Eligible Funds (Column 4 of Table 2 below, \$915,455,996) and the Net Available Distribution Fund (\$181,155,501) by the sum of the Total Investor Outlays across the six funds (Column 3, \$1,937,216,534). This yields the Eligible Funds Recovery Ratio of \$0.57 per \$1.00 of Total Investor Outlays.

4. Multiplying each Eligible Fund's Total Investor Outlays by the Eligible Funds Recovery Ratio yields the Equal Recovery Amount for each fund in Column 5 of Table 2. The allocation of the Net Available Distribution Fund (in Column 6 below) for each Eligible Fund is determined by subtracting Total Payments to Investors from the Equal Recovery Amount.

Table 2

Eligible Fund	Total Investment Amount [1]	Total Fees Paid [2]	Total Investor Outlays [3] = [1] + [2]	Total Payments to Investors [4]	Equal Recovery Amount [5] = 0.57 * [3]	Distribution Fund Allocation based on Equal Recovery [6] = [5] - [4]	Eligible Funds Recovery Ratio [7] = ([4]+[6]) / [3]
Falcon 2	\$437,228,704	\$24,932,911	\$462,161,615	\$203,043,407	\$261,618,529	\$58,575,122	\$0.57
Falcon 2b	\$348,612,015	\$8,925,999	\$357,538,014	\$181,104,935	\$202,393,635	\$21,288,700	\$0.57
Falcon 3	\$193,091,896	\$6,154,753	\$199,246,649	\$102,871,590	\$112,788,716	\$9,917,126	\$0.57
Falcon 4	\$70,650,000	\$573,557	\$71,223,557	\$39,972,790	\$40,317,936	\$345,146	\$0.57
Falcon Plus	\$28,500,000	\$916,557	\$29,416,557	\$8,593,172	\$16,652,003	\$8,058,831	\$0.57
ASTA/MAT 5	\$796,772,105	\$20,858,037	\$ 817,630,142	\$379,870,102	\$462,840,678	\$82,970,576	\$0.57
Sum	\$1,874,854,720	\$62,361,814	\$1,937,216,534	\$915,455,996	\$1,096,611,497	\$181,155,501	

5. Each Eligible Investor’s Distribution Payment will be calculated on a *pro rata* basis within each fund and will be determined by multiplying the Eligible Fund’s Distribution Fund Allocation by the ratio of the investor’s Investment Amount in the Eligible Fund to the fund’s Total Investment Amount. For example, based on Table 2 above, an investor with an Investment Amount of \$2,000,000 in Falcon Plus would receive a Distribution Payment of \$565,532, as follows: the Distribution Fund Allocation (Column 6) of \$8,058,831 is multiplied by the Investment Amount of \$2,000,000 and then divided by the Falcon Plus fund’s Total Investment Amount of \$28,500,000 (Column 1).

6. If, after one hundred and twenty (120) days following the issuance of all Distribution Payments, a Residual remains in the Distribution Fund that is sufficient, in the Commission staff’s view, to warrant an additional disbursement from the Distribution Fund, the Commission may exercise its discretion to enter an order authorizing an additional distribution to Eligible Investors who cashed their distribution checks or received an electronic payment in the initial disbursement of the Distribution Fund and who remain eligible to receive additional funds. If an additional distribution is so ordered by the Commission, all such Eligible Investors

shall receive an additional distribution payment, as long as it is equal to or greater than the De Minimis Amount. A payment to any Eligible Investor that calculates to less than the De Minimis Amount will not be included in the additional distribution.