

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 89287 / July 10, 2020

ADMINISTRATIVE PROCEEDING
File No. 3-16098

In the Matter of

Wilmington Trust Corporation

Respondent.

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**NOTICE OF PROPOSED PLAN OF
DISTRIBUTION AND OPPORTUNITY
FOR COMMENT**

Notice is hereby given, pursuant to Rule 1103 of the United State Securities and Exchange Commission’s (“Commission”) Rules on Fair Fund and Disgorgement Plans (“Commission’s Rules”), 17 C.F.R. § 201.1103, that the Division of Enforcement has submitted to the Commission a proposed plan of distribution (the “Plan”) for the distribution of monies paid in the above-captioned matter.

On September 11, 2014, the Commission issued an Order Instituting Cease-and-Desist Proceedings Pursuant to Section 8A of the Securities Act of 1933 and Section 21C of the Securities Exchange Act of 1934, Making Findings, and Imposing Remedial Sanctions and a Cease-and-Desist Order (the “Order”)¹ against Wilmington Trust Corporation (the “Respondent” or “WTC”). According to the Order, the administrative proceeding arose out of false and misleading disclosures by WTC concerning its accruing loans past due 90 days or more over multiple quarters during 2009 and 2010, its non-accruing loans in the third quarter of 2009, and its reserves for loan losses in the third and fourth quarters of 2009. The Commission found, among other things, that the Bank omitted almost \$339 million in matured loans past due 90 days or more from its disclosures in its filings with the Commission for the third quarter of 2009; omitted over \$330 million in matured loans past due 90 days or more from its disclosures in its filings for the year ended 2009; and incorporated its false and misleading Form 10-K for 2009 by reference in the offering materials for a February 2010 public offering in which the Bank sold \$287 million of its common stock. The Commission determined that, by its conduct, WTC violated Sections 17(a)(2) and 17(a)(3) of the Securities Act of 1933, and Sections 13(a), 13(b)(2)(A), and 13(b)(2)(B) of the Securities Exchange Act of 1934 and Rules 13a-1, 13a-11, 13a-13, and 12b-20 thereunder. The Commission ordered the Respondent to pay a total of \$18,545,896.16 in disgorgement and prejudgment interest to the Commission. WTC has paid in full and the \$18,545,896.16 in disgorgement and prejudgment interest paid by WTC (the

¹ Securities Act Rel. No. 9646 (Sept. 11, 2014)

“Distribution Fund”) was deposited in an interest-bearing account at the U.S. Treasury’s Bureau of Fiscal Service.

In a related forfeiture action, *United States v. \$44,000,000 in United States Currency*, 17-cv-01416-RGA (D. Del.), in which the United States sought WTC’s forfeiture of all right, title, and interest in \$44 million traceable to false statements made by WTC in securities and regulatory filings between the third quarter of 2009 and the second quarter of 2010, WTC defaulted, resulting in forfeiture of \$44 million to the Department of Justice (“DOJ”). DOJ has sent \$43,993,288.93, comprised of the forfeited funds less the expenses incurred by the government in seizing those funds (the “Net Forfeited Funds”), to the Commission, so those funds can be added to the Distribution Fund for distribution through a distribution plan approved in the captioned proceeding. The Net Forfeited Funds have been added to the Distribution Fund.

The Distribution Fund is subject to the continuing jurisdiction and control of the Commission.

OPPORTUNITY FOR COMMENT

Pursuant to this Notice, all interested persons are advised that they may obtain a copy of the Plan from the Commission’s public website at <http://www.sec.gov/litigation/fairfundlist.htm>. Interested persons may also obtain a written copy of the Plan by submitting a written request to Catherine E. Pappas, United States Securities and Exchange Commission, One Penn Center, 1617 JFK Blvd., Ste. 520, Philadelphia, PA 19103. All persons who desire to comment on the Plan may submit their comments, in writing, no later than thirty (30) days from the date of this Notice:

1. to the Office of the Secretary, United States Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090;
2. by using the Commission’s Internet comment form (<http://www.sec.gov/litigation/admin.shtml>); or
3. by sending an e-mail to rule-comments@sec.gov.

Comments submitted by email or via the Commission’s website should include “Administrative Proceeding File No. 3-16098” in the subject line. Comments received will be publicly available. Persons should submit only information they wish to make publicly available.

THE PLAN

The Net Available Distribution Fund² is comprised of the \$18,545,896.16 in disgorgement and prejudgment interest paid by the Respondent, the \$43,993,288.93 in Net Forfeited Funds, plus interest and income earned thereon, minus all taxes, fees, and other expenses of distributing the Net Available Distribution Fund to investors who were harmed by the conduct described in the Order. The Plan proposes to distribute the Net Distribution Fund to

² All capitalized terms used herein but not defined shall have the same meanings ascribed to them in the Plan.

investors who purchased Wilmington Trust Corporation common stock from January 18, 2008 through October 31, 2010, inclusive, and who suffered an eligible loss as calculated under the Plan.

For the Commission, by its Secretary, pursuant to delegated authority.

Vanessa A. Countryman
Secretary