

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING
File No. 3-21602

In the Matter of	:	
	:	
Prime Group Holdings, LLC	:	PROPOSED PLAN OF
	:	DISTRIBUTION
	:	
Respondent.	:	
	:	

I. OVERVIEW

1. The Division of Enforcement submits this Proposed 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 paid by Prime Group Holdings, LLC (the “Respondent”) in the above-captioned matter.¹

2. As described more specifically below, the Plan seeks to compensate investors who were harmed by the Respondent’s payment of improperly disclosed real estate brokerage fees to an affiliated real estate brokerage firm (“Affiliate”) as 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 in Prime Storage Fund II, LP (“Fund II”)² will be compensated for Respondent’s payment of improperly disclosed real estate brokerage fees paid to Affiliate between March 29, 2017 and April 28, 2021, inclusive (the “Relevant Period”).

¹ See Order Instituting Cease-and-Desist Proceedings Pursuant to Section 8A of the Securities Act of 1933, Making Findings, and Imposing a Cease-and-Desist Order, Securities Act Rel. No. 11228 (Sept. 5, 2023) (the “Order”).

² This will include investors in any of the three investment vehicles that comprised Fund II, including Prime Storage Fund II, LP; Prime Storage Fund II IDF, LP; and Prime Storage Fund II (Cayman), LP.

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 September 5, 2023, the Commission issued the Order instituting and simultaneously settling cease-and-desist proceedings against the Respondent. In the Order, the Commission found that Respondent, a private equity real estate firm focused on alternative real estate asset classes, made inadequate disclosures and materially misleading statements in the offering materials of Fund II, relating to millions of dollars of earned real estate brokerage fees paid between 2017 and 2021 to Affiliate, which is wholly owned by Respondent's CEO. The Respondent managed and oversaw the operations of numerous self-storage real estate properties, some of which are fully owned by Fund II, with others managed on behalf of other investors including Respondent's CEO. Respondent retained employees and independent contractors to source real estate acquisition transactions ("Deal Teams"). The brokerage fees paid to Affiliate in connection with property acquisition were used, in part to compensate the Deal Teams that sourced transactions on behalf of Fund II, as well as to pay for operational expenses of Respondent's operations. Fund II's offering materials, including its limited partnership agreement, private placement memorandum, and due diligence questionnaires, included statements regarding certain contemplated fees to be paid by Fund II for services, including brokerage fees. These offering materials, however, did not adequately disclose that certain brokerage fees would be paid to Affiliate or that such payment could create a conflict of interest, or that fees received by Affiliate paid for, in part, operation expenses of Respondent. These failures to disclose material information rendered statements made by Respondent to investors in Fund II misleading. The Commission ordered the Respondent to pay \$11,510,625 in disgorgement, \$2,561,197 in prejudgment interest, and a \$6,500,000 civil money penalty, for a total of \$20,571,822, to the Commission. 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. The Respondent has paid in full. The Fair Fund has been deposited in a Commission-designated account at the U.S. 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**" means any administrative costs and expenses, including without limitation tax obligations, the fees and expenses of the Tax Administrator and the Fund Administrator, bond premium expenses, and investment and banking costs.

9. “**Certification Date**” means the date established in accordance with this Plan by which a Preliminary Claimant’s Certification Form must be postmarked or submitted electronically in order to receive consideration under the Plan. The Certification Date shall be sixty (60) days from the mailing of the Plan Notice.

10. “**Certification Form**” means the form that will be emailed or mailed to each Preliminary Claimant. The Certification Form will require confirmation of the name and mailing address of the Payee to which a Distribution Payment should be issued. The Certification Form will also require confirmation of the Recognized Loss listed in the Plan Notice. The Certification Form will require tax identification information from the Preliminary Claimant and a certification that the Preliminary Claimant is not an Excluded Party. The Certification Form may be accompanied by tax forms, as required, relating to the tax treatment of any distribution.

11. “**Determination Notice**” means the notice sent by the Fund Administrator within forty-five (45) days of the Certification Date to all Preliminary Claimants that submitted a deficient Certification Form. The Determination Notice will provide to each Preliminary Claimant whose claim is deficient, in whole or in part, the reason(s) for the deficiency and in the event the claim is denied, the Determination Notice will state the reason(s) for such denial. The Determination Notice will also notify the Preliminary Claimant of the opportunity to cure any deficiency, request reconsideration, or dispute the determination made by the Fund Administrator and provide instructions regarding what is required to do so.

12. “**Distribution Payment**” means a payment from the Fair Fund to a Payee in accordance with the terms of this Plan.

13. “**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.

14. “**Excluded Party**” means:

- (a) The Respondent;
- (b) Present or former officers or directors of the Respondent;
- (c) Any employee or former employee of the Respondent or any of its affiliates who has been disciplined, terminated, or has otherwise resigned, in connection with the conduct described in the Order;
- (d) Any Person who, as of the Certification Date, has been the subject of criminal charges related to the conduct described in the Order or any related Commission action;
- (e) Any firm, trust, corporation, or other entity in which Respondent has or had a controlling interest and any officer or director of such entity;

- (f) The Fund Administrator, its employees, and those Persons assisting the Fund Administrator in its role as the Fund Administrator;
- (g) Any assigns, creditors, heirs, distributees, spouses, parents, dependent children, or controlled entities of any of the foregoing Persons or entities listed in Paragraph 14 (a)-(f), above, or
- (h) Any purchaser or assignee of another Person's right to obtain a recovery from the Fair Fund for value; provided, however, that this provision will not be construed to exclude those Persons who obtained such a right by gift, inheritance, or devise.

15. **"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 Respondent's violations described in the Order.

16. **"Final Determination Notice"** means the written notice sent by the Fund Administrator to (a) all Preliminary Claimants who timely submitted a Certification Form, notifying the Preliminary Claimants of the Fund Administrator's eligibility determination, and (b) those Preliminary Claimants who have not responded to the Plan Notice by returning a Certification Form and/or other requested documentation as described in paragraph 43 notifying the Preliminary Claimant that he, she, or it has been deemed an Unresponsive Preliminary Claimant. The Fund Administrator will not send a Final Determination Notice to a Preliminary Claimant, if his, her, or its Plan Notice was returned as undeliverable. The Final Determination Notice will provide each Preliminary Claimant that is determined to be an Eligible Claimant with his, her, or its Recognized Loss. The Final Determination Notice will constitute the Fund Administrator's final ruling regarding the eligibility status of the claim.

17. **"Net Available Fair Fund"** means the Fair Fund, plus any interest or earnings, less Administrative Costs.

18. **"Payee"** means an Eligible Claimant whose distribution amount is equal to or greater than \$20.00, as calculated in accordance with the Plan of Allocation, who will receive a Distribution Payment.

19. **"Person"** means natural individuals as well as legal entities such as corporations, partnerships, or limited liability companies.

20. **"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; the Certification Form, along with specification of any information needed from the Preliminary Claimant to prevent him, her, or it from being deemed an Unresponsive Preliminary Claimant; the Preliminary Claimant's 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.

21. **“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.

22. **“Preliminary Claimant”** means a Person, or their lawful successors, identified by the Fund Administrator based on its review and analysis of applicable records obtained by the Commission staff during its investigation, who may have held an interest in Fund II during the Relevant Period.

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

24. **“Relevant Period”** is between March 29, 2017 and April 28, 2021, inclusive.

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

IV. TAX COMPLIANCE

26. On November 30, 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.³ The Tax Administrator will be compensated for reasonable fees and expenses from the Fair Fund in accordance with its 2022-2024 Engagement Letter Agreement with the Commission.⁴

27. 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

³ See Order Appointing Tax Administrator, Exchange Act Rel. No. 99055 (Nov. 30, 2023).

⁴ 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).

- (c) Fulfilling any information reporting or withholding requirements imposed on distributions from the Fair Fund.

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

V. FUND ADMINISTRATOR

29. On February 5, 2024, the Commission appointed SS&C GIDS, Inc., as the fund administrator for the Fair Fund (the “Fund Administrator”), and the Fund Administrator has obtained a bond in the amount of \$20,571,822, as ordered.⁵ Pursuant to Rule 1105(a) of the Commission’s Rules, 17 C.F.R. § 201.1105(a), the Fund Administrator may be removed at any time by order of the Commission or hearing officer.

30. 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; establishing a website and staffing a call center to address inquiries regarding the Plan; 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.

31. 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.

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

33. When administering this Plan, the Fund Administrator, and/or each of its designees, agents and assigns, may rely on all applicable law; orders issued by the Commission, including orders issued by delegated authority; orders issued by an administrative law judge, if any, appointed in this proceeding; and any records, including records containing investor information, provided by Commission staff.

34. The Fund Administrator is authorized to enter into agreements with third parties as may be appropriate or necessary in the administration of the Fair Fund, provided such third parties are not excluded pursuant to other provisions of this Plan. In connection with such agreements, the third parties shall be deemed to be agents of the Fund Administrator under this Plan.

⁵ See Order Appointing Fund Administrator, Setting Administrator's Bond Amount, and Authorizing Payment of Fees and Expenses, Exchange Act Rel. No. 99466 (Feb. 5, 2024).

35. The Fund Administrator will be entitled to payment from the Fair Fund of reasonable fees and expenses, including the bond premium, incurred in the performance of its duties (including any such fees and expenses incurred by agents, consultants or third parties retained by the Fund Administrator in furtherance of its duties).

VI. PLAN PROCEDURES

Specification of and Notification of Preliminary Claimants

36. Using information obtained during its investigation, the Commission has identified the Preliminary Claimants. Preliminary Claimants are limited to only those Persons who held Fund II during the period between March 29, 2017 and April 28, 2021, inclusive.

Procedures for Locating and Notifying Preliminary Claimants

37. Within forty-five (45) days of Commission approval of the Plan, the Fund Administrator will:

- (a) Establish and maintain a website devoted solely to the Fair Fund. The Fair Fund's website will make available a copy of the approved Plan, include a copy of the Plan Notice and Certification Form, and related materials in downloadable form, and such other information that the Fund Administrator believes will be beneficial to Preliminary Claimants;
- (b) Establish and maintain a toll-free telephone number for Preliminary Claimants to call and speak to a live representative of the Fund Administrator during its regular business hours;
- (c) Establish and maintain a traditional mailing address and an email address which will be listed on all correspondence from the Fund Administrator to Preliminary Claimants as well as on the Fair Fund's website;
- (d) Establish and maintain a case specific database of all Preliminary Claimants based upon information provided to and obtained by the Fund Administrator, including their last known physical and email addresses;
- (e) Run a National Change of Address search to retrieve updated addresses for all records in the database, thereby ensuring the mailing information for Preliminary Claimants is up to date; and
- (f) Send a Plan Notice and Certification Form to each Preliminary Claimant's last known email address (if known) and/or mailing address.

38. The Commission staff retains the right to review and approve any material posted on the Fair Fund's website, any communication with investors, and any scripts used in connection with communications with investors.

Undeliverable Mail

39. Within forty-five (45) days of the initial mailing of the Plan Notice, the Fund Administrator will attempt to locate any Preliminary Claimant whose mailing is returned as undeliverable by the U.S. Postal Service or otherwise, including an advanced address search using commercially available resources, if feasible, and will document all such efforts. If another address is obtained, the Fund Administrator will then resend it to the Preliminary Claimant's new address within fourteen (14) 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 its discretion, may deem such Preliminary Claimant an Unresponsive Preliminary Claimant. The Fund Administrator will not attempt to locate an address for U.S. Postal Service returned mail, or resend a Plan Notice, after ninety (90) days from the initial mailing of the Plan Notice.

40. The Fund Administrator, with Commission staff approval, may engage a third-party search firm to conduct more rigorous searches for Persons whose mailings are returned as undeliverable.

41. 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

42. Any Person who does not receive a Plan Notice and Certification Form, 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 sixty (60) days from the approval of the Plan to establish that they should be considered a Preliminary Claimant. Such Person should include with that communication, documentation sufficient to support their claim that they should be considered a Preliminary Claimant, as well as contact information (physical address, telephone number, and email address, if available) for responsive communications. The Fund Administrator will send the Person a Plan Notice within ten (10) days of receiving the Person's documentation, if the Fund Administrator determines that the Person should have received a Plan Notice.

Certification Requirement and Failure to Respond to Plan Notice

43. To maintain classification as a Preliminary Claimant, a completed Certification Form, together with all required supporting documentation as requested in the Plan Notice, must be signed by the Preliminary Claimant under penalty of perjury under the laws of the United States and returned to the Fund Administrator by the Certification Date. The Certification Form must be executed by the Preliminary Claimant, unless the Fund Administrator accepts such

Certification Form from a successor, heir, administrator, or other Person authorized to act on the Preliminary Claimant's behalf. Those authorized to act on behalf of Preliminary Claimants will be eligible to participate in the distribution to the same extent the original investor would have been eligible under the terms of the Plan.

44. The Fund Administrator will review all Certification Forms. Each Preliminary Claimant has the burden of proof to establish his, her, or its identity as a Preliminary Claimant or successor. The Fund Administrator may request, and the Preliminary Claimant has the burden of providing, any additional information and/or documentation deemed relevant by the Fund Administrator.

45. If a Preliminary Claimant fails to return the Certification Form and any supporting documentation within sixty (60) days from the initial mailing of the Plan Notice, the Fund Administrator will make no fewer than two (2) attempts to contact the Preliminary Claimant by telephone or email. The second attempt will in no event take place more than seventy-five (75) 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 its discretion, may deem such Preliminary Claimant an Unresponsive Preliminary Claimant.

Review of Certification Forms and Deficiency Process

46. The Fund Administrator will provide a Determination Notice within forty-five (45) days of the Certification Date to each Preliminary Claimant who has filed a deficient Certification Form with the Fund Administrator. The Determination Notice will provide to each Preliminary Claimant whose claim is deficient, in whole or in part, the reason(s) for the deficiency (*e.g.*, failure to provide required information or documentation). In the event the claim is denied, in whole or in part, the Determination Notice will state the reason(s) for such denial. The Determination Notice will also notify the Preliminary Claimant of the opportunity to cure any deficiency, request reconsideration, or dispute the determination made by the Fund Administrator and provide instructions regarding what is required to do so.

47. Any Preliminary Claimant with a deficient claim will have thirty (30) days from the date of the Determination Notice to cure any deficiencies identified in the Determination Notice.

48. Any Preliminary Claimant seeking reconsideration of a denied claim must advise the Fund Administrator in writing within thirty (30) days of the date of the Determination Notice. All requests for reconsideration must include the necessary documentation to substantiate the basis upon which the Preliminary Claimant is requesting reconsideration of his, her, or its claim.

49. The Fund Administrator will have the authority, in its sole discretion, to waive technical claim deficiencies and approve claims on a case-by-case basis, or in groups of claims. All determinations made by the Fund Administrator in accordance with the Plan in any dispute, request for reconsideration, or request to cure a deficient claim will be final and not subject to appeal.

Dispute Process

50. Disputes will be limited to calculation of Recognized Loss. If a Preliminary Claimant disputes their Recognized Loss, such dispute must be detailed on the Certification Form and returned to the Fund Administrator along with any supporting documentation by the Certification Date. 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

51. Within one hundred eighty (180) days of the initial mailing of the Plan Notices, the Fund Administrator will send a Final Determination Notice to (a) all Preliminary Claimants who timely submitted a Certification Form notifying the Preliminary Claimants of the Fund Administrator's eligibility determination and (b) those Preliminary Claimants who have not responded to the Plan Notice, as described in paragraph 43 above, notifying the Preliminary Claimant that he, she, or it has been deemed an Unresponsive Preliminary Claimant. The Fund Administrator will not send a Final Determination Notice to a Preliminary Claimant, if his, her, or its Plan Notice was returned as undeliverable. The Final Determination Notice will provide each Preliminary Claimant that is determined to be an Eligible Claimant with his, her, or its Recognized Loss. The Final Determination Notice will constitute the Fund Administrator's final ruling regarding the eligibility status of the claim.

Third Party Review

52. After the Fund Administrator has completed the process of analyzing the claims and determining claim amounts in accordance with the Plan, and prior to the distribution of any funds, the Fund Administrator will engage an independent, third-party firm, not unacceptable to Commission staff, to perform a set of agreed upon procedures, review a statistically significant sample of claims and ensure accurate and comprehensive application of the Plan of Allocation. The Fund Administrator will communicate the results of the review to Commission staff together with any written analysis or reports related to the review, and, upon request, will make the firm available to the Commission staff to respond to questions concerning the review.

Distribution Methodology

53. The Fund Administrator will calculate each Preliminary Claimant's Recognized Loss in accordance with the Plan of Allocation. Any Preliminary Claimant who is determined to have a Recognized Loss and is not 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 \$20.00, as calculated in accordance with the Plan of Allocation, will be deemed a Payee and receive a Distribution Payment.

Establishment of a Reserve

54. 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”).

55. 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 74 below.

Preparation of the Payment File

56. Within ninety (90) days of the mailing of the Final Determination Notices, above, paragraph 51, the Fund Administrator will compile and send to the Commission staff the Payee information, including the name, address, calculated Recognized Loss, and the amount of the Distribution Payment for all Payees (the “Payee List”). The Fund Administrator will also provide a Reasonable Assurances Letter to the Commission staff, representing that the Payee List: (a) was compiled in accordance with the approved Plan; (b) is accurate as to Payees’ names, addresses, Recognized Losses and amounts of their Distribution Payment; (c) includes the number of Payees compensated; (d) the percentage of the Payee’s Recognized Loss being compensated by the disbursement from the Fair Fund, and if applicable, the total percentage to include all prior disbursements; (e) the total amount of funds to be disbursed, and if applicable, includes the total amount of such funds to be withheld pursuant to paragraph 66; and (f) provides all information necessary to make a payment to each Payee.

The Escrow Account

57. Prior to the disbursement of funds from the Net Available Fair Fund, the Fund Administrator will establish an escrow account (the “Escrow Account”) with a United States commercial bank that is a well-capitalized financial institution as defined by the Federal Reserve Act, Subpart D, 12 C.F.R. § 208.43 and that is not unacceptable to the Commission staff (the “Bank”), pursuant to an escrow agreement (the “Escrow Agreement”) to be provided by Commission staff.

58. The Fund Administrator, pursuant to the Escrow Agreement, shall also establish with the Bank a separate deposit account (*e.g.* controlled distribution account, managed distribution account, linked checking and investment account) (the “Distribution Account”), insured by the Federal Deposit Insurance Corporation (“FDIC”) up to the guaranteed FDIC pass through limit. The Distribution Account shall be linked with the Escrow Account and shall be named, and records maintained, in accordance with the Escrow Agreement.

59. During the term of the Escrow Agreement, the portions of the Fair Fund transferred to the Escrow Account (the “Escrow Property”) shall be invested and reinvested in short-term U.S. Treasury securities backed by the full faith and credit of the United States Government or an agency thereof. The investment shall be, of a type and term necessary to meet the cash liquidity requirements for payments to Payees and Administrative Costs, including investment or reinvestment in a bank account insured by the 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.

60. 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.

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

62. All interest, dividends, and/or income earned by the Escrow Property will accrue for the benefit of the Escrow Property. All Administrative Costs associated with the Escrow and Distribution Accounts will be the responsibility of the Fund Administrator, who may be reimbursed for said costs as provided in this Plan. No such Administrative Costs may be paid to the Bank, its agents, and/or its affiliates from the Escrow Property.

Distribution of the Fair Fund

63. Upon the Commission's staff's receipt, review, and acceptance of the Payee List and Reasonable Assurances Letter from the Fund Administrator, the Commission staff will seek an order from the Commission pursuant to Rule 1101(b)(6) of the Commission's Rules, 17 C.F.R. § 210.1101(b)(6), to disburse funds from the Net Available Fair Fund to the Bank in accordance with the Payee List for distribution by the Fund Administrator in accordance with the Plan. All disbursements will be made pursuant to a Commission Order.

64. Upon issuance of an order to disburse, the Commission staff will direct the transfer of funds in accordance with the Payee List to the Bank. The Fund Administrator will then use its best efforts to commence mailing Distribution Payment checks and/or effect electronic payments within ten (10) business days of the release of the funds into the Escrow Account. All efforts will be coordinated to limit the time between the Escrow Account's receipt of the funds and the issuance of Distribution Payments.

65. All checks will be issued by the Fund Administrator from the Distribution Account. All checks will bear a stale date of one hundred twenty (120) days from the date of issuance. Checks that are not negotiated by the stale date will be voided, and the Bank will be instructed to stop payment on those checks. A Payee's claim will be extinguished if he, she, or it fails to negotiate his, her or its check by the stale date, and the funds will remain in the Fair Fund, except as provided in paragraph 69.

66. 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 hundred twenty (120) days 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 submitted to the Tax Administrator and Commission staff for review and approval.

67. 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; Handing of Returned or Uncashed Checks; and Reissues

68. 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 new address information is not available after a diligent search (and in no event no later than one hundred twenty (120) days after the initial mailing of the original check) or if the distribution check is returned again, the check shall be voided, and the Fund Administrator shall instruct the issuing financial institution to stop payment on such check. If the Fund Administrator is unable to find a Payee’s correct address, the Fund Administrator, in its 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.

69. 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 at the later of one hundred twenty (120) days from issuance of the original check or sixty (60) days from the reissuance, and in no event will a check be reissued after one hundred twenty (120) days from the date of the original issuance without the approval of Commission staff.

70. The Fund Administrator will work with the Bank and 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.

71. 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.

Receipt of Additional Funds

72. 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

73. If funds remain following the initial distribution and payment of all 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.

74. 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.

75. Once the Fund Administrator, in consultation with the Commission staff, deems further distribution of the Fair Fund to investors infeasible, the Fund Administrator will direct the Bank to stop payment on all uncashed distribution payments, and return any funds remaining in the Escrow and Distribution Accounts to the Commission to become part of the Residual.

76. All funds remaining in the Residual that are infeasible to distribute to investors will be held by the Commission and transferred to the U.S. Treasury after the final accounting is approved by the Commission. Returning such money to the Respondent 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

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

Accountings

78. In accordance with Rule 1105(f) of the Commission's Rules, the Fund Administrator shall provide to the Commission staff a progress report and a quarterly account statement in a format to be provided by Commission staff, within forty-five (45) days of the Commission's approval of the Plan, and shall provide to Commission staff additional reports and quarterly account statements within ten (10) days after the end of every calendar quarter. Such progress reports shall inform the Commission staff of the activities and status of the Fair Fund during the reporting period, and shall specify, at a minimum, the location of the account(s) comprising the Fair Fund, including among other things, an interim accounting of all monies in the Fair Fund.

79. When the final distribution is completed, the Fund Administrator shall provide to Commission staff a final report summarizing all tasks undertaken and the outcome of its administrative efforts. The Fund Administrator shall make arrangement for the final payment of all Administrative Costs, and submit a final accounting of all monies received, earned, spent, and distributed in connection with the administration of the Plan in a format provided by the Commission staff. The Fund Administrator will also submit a report to the Commission staff containing the final distribution statistics regarding distributions to individuals and entities, and such other information requested by the Commission staff.

Wind-down and Document Retention

80. The Fund Administrator will shut down the website, P.O. Box and customer service telephone line(s) established specifically for the administration of the Fair Fund six (6) months after the transfer of any remaining funds to the Commission, or at such earlier time as the Fund Administrator determines with the concurrence of the Commission staff.

81. The Fund Administrator will retain all materials submitted by Preliminary Claimants in either paper or electronic form for a period of six (6) years from the date of approval of a final fund accounting. Materials maintained in electronic form must be accessible and readable for the duration of retention. Pursuant to the Commission staff's direction, the Fund Administrator will either turn over to the Commission or destroy all materials, including documents in any media, upon expiration of this period.

Termination of the Fair Fund

82. Once the Commission has approved the final accounting, the Commission staff will seek an order from the Commission authorizing: (a) the transfer of any amounts remaining in the Fair Fund 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 U.S. Treasury, subject to Section 21F(g)(3) of the Exchange Act; (b) discharge of the Fund Administrator; (c) cancellation of the Fund Administrator's bond; and (d) termination of the Fair Fund.

83. 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; (b) all Administrative Costs have been paid; and (c) any amount remaining in the Fair Fund has been returned to the Commission for transfer to U.S. Treasury.

84. Once the Fair Fund has been terminated and funds, if any, are transferred to the U.S. Treasury, no further payments will be made whatsoever.

VII. NOTICE OF PROPOSED PLAN AND OPPORTUNITY FOR COMMENT

85. The Notice of the Proposed Plan of Distribution and Opportunity for Comment (the “Notice”) shall be published on the Commission’s website <http://www.sec.gov/litigation/fairfundlist.htm>. Any Person wishing to comment on the Plan must do so in writing by submitting their comments within thirty (30) days of the date of the Notice (a) to the Office of the Secretary, United States Securities and Exchange Commission, 100 F Street, N.E., Washington, D.C. 20549-1090; (b) by using the Commission’s Internet comment form (www.sec.gov/litigation/admin.shtml); or (c) by sending an e-mail to rule-comments@sec.gov. Comments submitted by e-mail or via the Commission’s website should include “Administrative Proceeding File No. 3-21602 in the subject line. Comments received will be publicly available. Persons should only submit comments that they wish to make publicly available.

Exhibit A

PLAN OF ALLOCATION

This Plan of Allocation is designed to compensate investors in Prime Storage Fund II, LP (“Fund II”) for improperly disclosed real estate brokerage fees paid to an affiliated brokerage between March 29, 2017 and April 28, 2021, inclusive (the “Relevant Period”). Investors who were not invested in one of the three “Fund II Vehicles” during the Relevant Period are ineligible 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 held an interest in Fund II during the Relevant Period (the “Preliminary Claimants”).

The Fund Administrator will calculate each Preliminary Claimant’s loss (“Recognized Loss”) as follows:

- A. For each of three Fund II Vehicles—Prime Storage Fund II, LP; Prime Storage Fund II IDF, LP; and Prime Storage Fund II (Cayman), LP—sum the improperly disclosed real estate brokerage fees paid to the affiliated brokerage during each calendar quarter in the Relevant Period;
- B. For each of the three Fund II Vehicles, sum the improper fees across all quarters of the Relevant Period (“Total Improper Fees”);
- C. Within each Fund II Vehicle, calculate each Preliminary Claimant’s “Percentage Commitment” as his, her or its commitment amount during the Relevant Period divided by the sum of all commitment amounts in the respective Fund II Vehicle during the Relevant Period; and
- D. For each Preliminary Claimant in each Fund II Vehicle, calculate Recognized Loss as his, her or its Percentage Commitment multiplied by Total Improper Fees. The Recognized Loss for a Preliminary Claimant who transferred his, her or its commitment in a Fund II Vehicle during the Relevant Period will be the portion of Total Improper Fees paid through the last quarter ending on or before the date of the transfer, with the remainder of the Total Improper Fees attributed to the transferee’s Recognized Loss.

If the Recognized Loss calculates to a negative number, reflecting a gain, then the Recognized Loss will be \$0.00.

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: If the Net Available Fair Fund, as defined in the Plan, is equal to or exceeds the sum of Recognized Losses of all Eligible Claimants, each Eligible Claimant's distribution amount will equal his, her or its Recognized Loss, plus "Reasonable Interest" if applicable. If the Net Available Fair Fund is less than the sum of the Recognized Losses of all Eligible Claimants, each Eligible Claimant's distribution amount will equal his, her or its "*Pro Rata Percentage*" of the Net Available Fair Fund (and no Reasonable Interest). In either case, the distribution amount will be subject to the "Minimum Distribution Amount."

Reasonable Interest: If the Net Available Fair Fund exceeds that necessary to pay all Eligible Claimants his, her, or its Recognized Losses in full, the Fund Administrator, in consultation with the Commission staff, may include interest in the distribution amount to compensate Eligible Claimants for the time value of his, her, or its respective Recognized Losses. Reasonable Interest will be calculated using the Short-term Applicable Federal Rate plus three percent (3%), compounded quarterly from the beginning of the calendar quarter following each improperly disclosed real estate brokerage fee through the approximate date of the disbursement of the funds. If there are insufficient funds to pay Reasonable Interest in full to all Eligible Claimants, each Eligible Claimant's Reasonable Interest amount will be equal to his, her or its *Pro Rata Percentage* of the excess funds.

Pro Rata Percentage: A *Pro Rata Percentage* computation is intended to measure Eligible Claimants' Recognized Losses against one another. The Fund Administrator shall determine each Eligible Claimant's *Pro Rata Percentage* as the ratio of his, her, or its Recognized Loss to the sum of Recognized Losses of all Eligible Claimants.

Minimum Distribution Amount: The Minimum Distribution Amount will be \$20.00 (inclusive of Reasonable Interest, if any). 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 and his, her, or its distribution amount will be available to distribute to Eligible Claimants whose distribution amounts are greater than or equal to the Minimum Distribution Amount.

Payee: An Eligible Claimant whose distribution amount equals or exceeds the Minimum Distribution Amount will be deemed a Payee.

Distribution Payment: Payees will receive a Distribution Payment equal to his, her, or its distribution amount. In no event will a Payee receive from the Fair Fund more than his, her, or its Recognized Loss, plus Reasonable Interest, if applicable.