UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

INVESTMENT ADVISERS ACT OF 1940
Release No. 6670 / September 3, 2024

ADMINISTRATIVE PROCEEDING
File No. 3-22043

In the Matter of **GALOIS CAPITAL MANAGEMENT LLC,** **Respondent.**	**ORDER INSTITUTING ADMINISTRATIVE AND CEASE-AND-DESIST PROCEEDINGS, PURSUANT TO SECTIONS 203(e) AND 203(k) OF THE INVESTMENT ADVISERS ACT OF 1940, MAKING FINDINGS, AND IMPOSING REMEDIAL SANCTIONS AND A CEASE-AND-DESIST ORDER**

I.

The Securities and Exchange Commission ("Commission") deems it appropriate and in the public interest that public administrative and cease-and-desist proceedings be, and hereby are, instituted pursuant to Sections 203(e) and 203(k) of the Investment Advisers Act of 1940 ("Advisers Act") against Galois Capital Management LLC ("Respondent" or "Galois").

II.

In anticipation of the institution of these proceedings, Respondent has submitted an Offer of Settlement (the "Offer") which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, and without admitting or denying the findings herein, except as to the Commission's jurisdiction over it and the subject matter of these proceedings, which are admitted, Respondent consents to the entry of this Order Instituting Administrative and Cease-and-Desist Proceedings, Pursuant to Sections 203(e) and 203(k) of the Investment Advisers Act of 1940, Making Findings, and Imposing Remedial Sanctions and a Cease-And-Desist Order ("Order"), as set forth below.

III.

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

Summary

1. This matter involves violations of the Advisers Act by Galois Capital Management LLC ("Galois"), a previously registered investment adviser, in connection with Galois's redemption and custody practices. First, Galois misled certain investors about its redemption practices for the Galois Capital Alpha Fund LP (the "Fund"). The Fund's limited partnership agreement ("LPA") required 30 days' written notice for Fund investors to redeem unless the General Partner, as defined below and which was controlled by Galois, approved a shorter notice period. Galois had an informal practice of permitting redemptions with at least five business days' notice before month end, which was communicated to certain investors, including investors who asked about the redemption notice period or submitted redemption requests with less than 30 days' notice. However, Galois allowed certain Fund investors to redeem with less than five business days' notice. Galois's practice of permitting certain Fund investors, including affiliated investors, to redeem on shorter notice while disclosing a different redemption policy and practice to other investors was misleading. Second, Galois purchased certain crypto asset securities for the Fund, but failed to ensure that a qualified custodian maintained the securities as required by Section 206(4) of the Advisers Act and Rule 206(4)-2 thereunder. Additionally, Galois failed to adopt and implement written compliance policies and procedures during the time period that it was registered with the Commission as an investment adviser.

Respondent

2. Galois Capital Management LLC is a Delaware limited liability company with its principal place of business in Miami, Florida. Galois registered with the Commission as an investment adviser on July 8, 2022 and withdrew its registration on December 22, 2022. During the period that it was registered with the Commission, Galois advised one client, the Fund. On its Form ADV dated June 1, 2022, Galois reported approximately $205 million in regulatory assets under management. In early to mid November 2022, approximately half of the Fund's assets under management at that time were lost in connection with the collapse of FTX Trading Ltd. ("FTX").

Other Relevant Entities

3. Galois Capital Alpha Fund LP is a private fund formed in Delaware in August 2017 and is advised by Galois. The Fund is a pooled investment vehicle as defined by the Advisers Act.

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

The Fund primarily invested in crypto assets, including crypto asset securities, and is in the process of winding down.

4. Galois Alpha GP LLC (the "General Partner") is the general partner of the Fund. The General Partner is majority-owned by Galois's two principals and founders, both of whom are members of the General Partner and made investment decisions for the Fund through Galois.

Galois's Redemption Practices

5. The Fund's LPA provided that a partner may redeem from the Fund as of the last day of any calendar month only upon 30 days' written notice to the General Partner, unless the General Partner approved a shorter notice period.

6. Galois had an informal practice of permitting redemptions with less than 30 days' notice if investors provided at least five business days' notice prior to month end. Galois communicated this informal practice to certain investors, including investors who asked Galois about the redemption notice period or submitted redemption requests with less than 30 days' notice. Galois did not inform all investors about this informal practice, however. Both affiliated and non-affiliated investors redeemed from the Fund pursuant to Galois's informal practice of approving redemptions with at least five business days' notice.

7. Notwithstanding Galois's representations to certain Fund investors that it required five business days' notice to redeem by month end, Galois approved redemption requests made with less than five business days' notice for certain Fund investors. Galois's practice of permitting certain Fund investors, including affiliated investors, to redeem with less than five business days' notice while disclosing a different redemption policy and practice to other investors was misleading.

Failure to Maintain Client's Crypto Asset Securities with a Qualified Custodian

8. Advisers Act Rule 206(4)-2, referred to as the "Custody Rule," requires that registered investment advisers who have custody of client funds or securities comply with an enumerated set of requirements to prevent loss, theft, misuse, or misappropriation of those assets and to safeguard client funds and securities from the financial reverses, including insolvency, of an investment adviser.

9. An investment adviser has custody of client assets if it holds, directly or indirectly, client funds or securities, or if it has any authority to obtain possession of those assets, including by acting as a general partner of a limited partnership. *See* Rule 206(4)-2(d)(2). An investment adviser also has custody if its "related person" has possession of client funds or securities or has authority to obtain possession of them. *Id.* A related person of Galois served as the managing member of the General Partner of the Fund at all relevant times, and had the authority to make decisions for, and act on behalf of, the Fund. Galois therefore had custody of the Fund's assets as defined in Rule 206(4)-2.

10. A registered investment adviser with custody of client funds or securities must, among other things, ensure that a qualified custodian maintains these types of client assets. *See* Rule 206(4)-2(a)(1).

11. Between at least July 8, 2022 and December 22, 2022, the Fund held certain crypto assets that were offered and sold as securities. These crypto asset securities held by the Fund were not maintained with a qualified custodian as that term is defined in Rule 206(4)-2(d)(6). For example, Galois continuously held certain crypto asset securities in online trading accounts on crypto asset trading platforms, and these platforms were not banks, registered broker-dealers, registered futures commission merchants, or foreign financial institutions that customarily hold customers' financial assets and keep the advisory clients' assets in customer accounts segregated from their proprietary assets. In particular, Galois maintained certain of the Fund's crypto asset securities at FTX, which was not a qualified custodian.

Compliance Deficiencies

12. Although Galois registered as an investment adviser with the Commission on July 8, 2022, Galois failed to adopt or implement written compliance policies and procedures reasonably designed to prevent violations of the Advisers Act during the time period that it was registered with the Commission as an investment adviser.

Violations

13. As a result of the conduct described above, Respondent willfully[2] violated Section 206(4) of the Advisers Act and Rule 206(4)-8 thereunder, which make it unlawful for any investment adviser to a pooled investment vehicle to "[m]ake any untrue statement of a material fact or to omit to state a material fact necessary to make the statements made, in the light of the circumstances under which they were made, not misleading, to any investor or prospective investor in the pooled investment vehicle; or [o]therwise engage in any act, practice, or course of business that is fraudulent, deceptive, or manipulative with respect to any investor or prospective investor in the pooled investment vehicle." A showing of negligence is sufficient to establish a violation of Section 206(4) of the Advisers Act or Rule 206(4)-8 thereunder; proof of scienter is not required. *SEC v. Steadman*, 967 F.2d 636, 647 (D.C. Cir. 1992).

14. As a result of the conduct described above, Respondent willfully violated Section 206(4) of the Advisers Act and Rule 206(4)-2 promulgated thereunder, which, among other things,

[2] "Willfully," for purposes of imposing relief under Section 203(e) of the Advisers Act, "'means no more than that the person charged with the duty knows what he is doing.'" *Wonsover v. SEC*, 205 F.3d 408, 414 (D.C. Cir. 2000) (quoting *Hughes v. SEC*, 174 F.2d 969, 977 (D.C. Cir. 1949)). There is no requirement that the actor "also be aware that he is violating one of the Rules or Acts." *Tager v. SEC*, 344 F.2d 5, 8 (2d Cir. 1965). The decision in *The Robare Group, Ltd. v. SEC*, which construed the term "willfully" for purposes of a differently structured statutory provision, does not alter that standard. 922 F.3d 468, 478-79 (D.C. Cir. 2019) (setting forth the showing required to establish that a person has "willfully omit[ted]" material information from a required disclosure in violation of Section 207 of the Advisers Act).

prohibits a registered investment adviser from having custody of a client's funds and securities unless, among other things, the client's funds and securities are maintained by a qualified custodian, as defined by Rule 206(4)-2(d)(6).

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

IV.

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

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

A. Respondent cease and desist from committing or causing any violations and any future violations of Section 206(4) of the Advisers Act and Rules 206(4)-2, 206(4)-7 and 206(4)-8 promulgated thereunder.

B. Respondent is censured.

C. Respondent shall pay a civil monetary penalty in the amount of $225,000, consistent with the provisions of this Subsection IV.C.

(i) Pursuant to Section 308(a) of the Sarbanes-Oxley Act of 2002, as amended, a Fair Fund is created for the penalties described above for distribution to investors in the Fund that are not affiliated with Galois. Amounts ordered to be paid as civil money penalties pursuant to this Order shall be treated as penalties paid to the government for all purposes, including all tax purposes. To preserve the deterrent effect of the civil penalty, Respondent agrees that in any Related Investor Action, it shall not argue that it is entitled to, nor shall it benefit by, offset or reduction of any award of compensatory damages by the amount of any part of Respondent's payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, Respondent agrees that it shall, within 30 days after entry of a final order granting the Penalty Offset, notify the Commission's counsel in this action and pay the amount of the Penalty Offset to the Securities and Exchange Commission. Such a payment shall not be deemed an additional civil penalty and shall not be deemed to change the amount of the civil penalty imposed in this proceeding. For purposes of this paragraph, a "Related Investor Action" means a private damages action brought against Respondent by or on behalf of one or more investors based on substantially the same facts as alleged in the Order instituted by the Commission in this proceeding.

(ii) Within ten (10) days of the issuance of this Order, Respondent shall deposit $225,000 (the "Fair Fund") into an escrow account at a financial institution not unacceptable to the Commission staff and Respondent shall provide evidence of such deposit in a form acceptable to

the Commission staff. The account holding the assets of the Fair Fund shall bear the name and the taxpayer identification number of the Fair Fund. If timely payment into the escrow account is not made, additional interest shall accrue pursuant to SEC Rule of Practice 600 [17 C.F.R. § 201.600] and/or 31 U.S.C. § 3717.

(iii) Respondent shall be responsible for administering the Fair Fund and may hire a professional at its own cost to assist it in the administration of the distribution. The costs and expenses of administering the Fair Fund, including any such professional services, shall be borne by Respondent and shall not be paid out of the Fair Fund.

(iv) Respondent shall distribute from the Fair Fund an amount representing the pro rata interest of each individual investor in the Fund as of November 2022 to remedy the harm each such investor incurred in connection with Respondent's failure to maintain certain of the Fund's crypto asset securities at a qualified custodian, pursuant to a disbursement calculation (the "Calculation") that will be submitted to, reviewed, and approved by the Commission staff in accordance with this Subsection IV.C. No portion of the Fair Fund shall be paid to any affected investor account in which Respondent, or any of its current or former officers, directors or employees, has a financial interest.

(v) Respondent shall, within ninety days from the date of this Order, submit a calculation to the Commission staff for review and approval. At or around the time of submission of the proposed Distribution Calculation to the staff, Respondent shall make itself available, and shall require any third-parties or professionals retained by Respondent to assist in formulating the methodology for its Calculation and/or administration of the distribution to be available, for a conference call with the Commission staff to explain the methodology used in preparing the proposed Calculation and its implementation, and to provide the staff with an opportunity to ask questions. Respondent also shall provide the Commission staff such additional information and supporting documentation as the Commission staff may request for the purpose of its review. In the event of one or more objections by the Commission staff to Respondent's proposed Calculation or any of its information or supporting documentation, Respondent shall submit a revised Calculation for the review and approval of the Commission staff or additional information or supporting documentation within ten days of the date that the Commission staff notifies Respondent of the objection. The revised Calculation shall be subject to all of the provisions of this Subsection IV.C.

(vi) Respondent shall, within thirty (30) days of the written approval of the Calculation by the Commission staff, submit a payment file (the "Payment File") for review and acceptance by the Commission staff demonstrating the application of the methodology to each affected investor. The Payment File should identify, at a minimum, (1) the name of each affected investor; (2) the net amount of the payment to be made, less any tax withholding; and (3) the amount of any *de minimis* threshold to be applied. Respondent shall exclude from the payee file all payments to payees that appear on the U.S. Treasury Department Specially Designated Nationals List.

(vii) Respondent shall disburse all amounts payable to affected investors within ninety days of the date the Commission staff accepts the Payment File, unless such time period is

extended as provided in Paragraph (xi) of this Subsection IV.C. Respondent shall notify the Commission staff of the date(s) and the amount paid in the initial distribution.

(viii) If Respondent is unable to distribute or return any portion of the Fair Fund for any reason, including an inability to locate an affected investor or a beneficial owner of an affected investment account or any other factors beyond Respondent's control, Respondent shall transfer any such undistributed funds to the Commission for transmittal to the United States Treasury in accordance with Section 21F(g)(3) of the Securities Exchange Act of 1934 once the distribution of funds is complete and before the final accounting provided for in Paragraph (x) of this Subsection IV.C is submitted to the Commission staff. Payment must be made in one of the following ways:

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

b. Respondent may make direct payment from a bank account via Pay.gov through the SEC website at http://www.sec.gov/about/offices/ofm.htm; or

c. Respondent may pay by certified check, bank cashier's check, or United States postal money order, made payable to the Securities and Exchange Commission and hand-delivered or mailed to:

Enterprise Services Center
Accounts Receivable Branch
HQ Bldg., Room 181, AMZ-341
6500 South MacArthur Boulevard
Oklahoma City, OK 73169

Payments by check or money order must be accompanied by a cover letter identifying Galois Capital Management LLC as Respondent in these proceedings, and the file number of these proceedings; a copy of the cover letter and check or money order must be sent to Corey Schuster, Asset Management Unit Co-Chief, Division of Enforcement, Securities and Exchange Commission, 100 F St., NE, Washington, DC 20549.

(ix) A Fair Fund is a Qualified Settlement Fund ("QSF") under Section 468B(g) of the Internal Revenue Code ("IRC"), 26 U.S.C. §§ 1.468B.1-1.468B.5. Respondent agrees to be responsible for all tax compliance responsibilities associated with the Fair Fund's status as a QSF. These responsibilities involve reporting and paying requirements of the Fund, including but not limited to: (1) tax returns for the Fair Fund; (2) information return reporting regarding the payments to investors, as required by applicable codes and regulations; and (3) obligations resulting from compliance with the Foreign Account Tax Compliance Act (FATCA). Respondent may retain any professional services necessary. The costs and expenses of tax compliance, including any such professional services, shall be borne by Respondent and shall not be paid out of the Fair Fund.

(x) Within one hundred fifty days after Respondent completes the disbursement of all amounts payable to affected investors, Respondent shall return all undisbursed funds to the Commission pursuant to the instructions set forth in this Subsection IV.C. Respondent shall then submit to the Commission staff a final accounting and certification of the disposition of the Fair Fund for Commission approval, which final accounting and certification shall include, but not be limited to: (1) the amount paid to each payee, with the reasonable interest amount, if any, reported separately; (2) the total percentage of harm compensated; (3) the date of each payment; (4) the check number or other identifier of the money transferred; (5) the amount of any returned payment and the date received; (6) a description of the efforts to locate a prospective payee whose payment was returned or to whom payment was not made for any reason; (7) the total amount, if any, to be forwarded to the Commission for transfer to the United States Treasury; and (8) an affirmation that Respondent has made payments from the Fair Fund to affected investors in accordance with the Calculation approved by the Commission staff. The final accounting and certification shall be submitted under a cover letter that identifies Respondent and the file number of these proceedings to Corey Schuster, Asset Management Unit Co-Chief, Division of Enforcement, Securities and Exchange Commission, 100 F St., NE, Washington, DC 20549. Respondent shall provide any and all supporting documentation for the accounting and certification to the Commission staff upon its request and shall cooperate with any additional requests by the Commission staff in connection with the accounting and certification.

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

By the Commission.

Vanessa A. Countryman
Secretary