UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

INVESTMENT ADVISERS ACT OF 1940
Release No. 5944 / January 11, 2022

ADMINISTRATIVE PROCEEDING
File No. 3-20701

In the Matter of **O.N. INVESTMENT MANAGEMENT COMPANY,** **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 O.N. Investment Management Company ("ONIMCO" or "Respondent").

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 ONIMCO's Offer, the Commission finds[1] that:

Summary

1. These proceedings arise out of breaches of fiduciary duty by ONIMCO, a registered investment adviser, in connection with its affiliated broker-dealer and parent company O.N. Equity Sales Company's ("ONESCO") receipt of third-party compensation from client investments without fully and fairly disclosing associated conflicts of interest. In particular, since at least 2014 ONIMCO invested clients in: (1) mutual fund share classes that paid fees pursuant to Rule 12b-1 under the Investment Company Act of 1940 ("12b-1 fees"); (2) certain mutual funds that also generated no-transaction fee ("NTF") revenue for ONESCO; and (3) cash sweep products that likewise resulted in revenue sharing for ONESCO. In spite of these financial arrangements, ONIMCO provided no disclosure or inadequate disclosure of the conflicts of interest arising from ONESCO's receipt of this compensation. ONIMCO, although eligible to do so, did not self-report ONESCO's receipt of 12b-1 fees to the Commission pursuant to the Division of Enforcement's (the "Division") Share Class Selection Disclosure Initiative ("SCSD Initiative").[2] At all relevant times, ONIMCO also failed to adopt and implement written compliance policies and procedures reasonably designed to prevent violations of the Advisers Act and the rules thereunder in connection with its mutual fund share class selection practices, NTF revenue sharing, and cash sweep revenue sharing.

Respondent

2. ONIMCO is an Ohio company headquartered in Cincinnati, Ohio. ONIMCO has been registered with the Commission as an investment adviser since 1971. In its Form ADV dated March 25, 2021, ONIMCO reported that it had approximately $2.16 billion in regulatory assets under management. ONIMCO provides advisory services through investment adviser representatives, most of whom are registered representatives of ONESCO. ONIMCO is a subsidiary of ONESCO.

Related Party

3. ONESCO, an Ohio company headquartered in Cincinnati, Ohio, has been registered with the Commission as a broker-dealer since 1968. ONESCO is a wholly-owned subsidiary of The Ohio National Life Insurance Company. ONESCO acted as an introducing broker-dealer for ONIMCO's advisory clients.

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[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.

[2] *See* Div. of Enforcement, U.S. Sec. & Exch. Comm'n, *Share Class Selection Disclosure Initiative*, https://www.sec.gov/enforce/announcement/scsd-initiative (last modified Feb. 12, 2018).

Background

4. ONIMCO provides investment advisory services to individuals, families, trusts, estates, charitable organizations, businesses, and other organizations throughout the United States. ONIMCO offers investment advisory services to clients on both a non-discretionary and discretionary basis. ONIMCO also provides financial planning services.

5. As an investment adviser, ONIMCO was obligated to disclose all material facts to its advisory clients, including any conflicts of interest between it and its clients, which could affect the advisory relationship. ONIMCO was also obligated to disclose all material facts relating to how those conflicts could affect the advice ONIMCO and/or its associated persons provided its clients. To meet this fiduciary obligation, ONIMCO was required to provide its advisory clients with full and fair disclosure that was sufficiently specific so that clients could understand the conflicts of interest concerning ONIMCO's investment advice and have an informed basis on which they could consent to or reject the conflicts.

Mutual Fund Share Class Selection and 12b-1 Fees

6. Mutual funds typically offer investors different types of shares or "share classes." Each share class represents an interest in the same portfolio of securities with the same investment objective. The primary difference among the share classes is the fee structure.

7. For example, some mutual fund share classes charge 12b-1 fees to cover certain costs of fund distribution and sometimes shareholder services. These recurring fees, which are included in a mutual fund's total annual fund operating expenses, vary by share class, but typically range from 25 to 100 basis points. They are deducted from the mutual fund's assets on an ongoing basis and paid to the fund's distributor or principal underwriter, which generally remits the 12b-1 fees to the broker-dealer that distributed or sold the shares.

8. Many mutual funds also offer share classes that do not charge 12b-1 fees (*e.g.*, "Institutional Class" or "Class I" shares (collectively, "Class I shares")).[3] An investor who holds Class I shares of a mutual fund will usually pay lower total annual fund operating expenses over time – and thus will generally earn higher returns – than one who holds a share class of the same fund that charges 12b-1 fees. Therefore, if a mutual fund offers a Class I share, and an investor is eligible to own it, it is often, though not always, better for the investor to purchase or hold the Class I share.

9. During the relevant period, ONIMCO advised clients to purchase or hold[4] mutual fund share classes that charged 12b-1 fees when lower-cost share classes of those same funds were

[3] Share classes that do not charge 12b-1 fees also go by a variety of other names in the mutual fund industry, such as "Class F2," "Class Y," and "Class Z" shares. As used in this Order, the term "Class I shares" refers generically to share classes that do not charge 12b-1 fees.

[4] In many cases, mutual funds permit certain advisory clients who hold shares in classes charging 12b-1 fees to convert those shares to Class I shares without cost or tax consequences to the client.

available to those clients. As a result, ONIMCO's affiliated broker-dealer, ONESCO, received 12b-1 fees that it would not have collected had ONIMCO's advisory clients been invested in the available lower-cost share classes of those funds. In March 2017, ONIMCO began rebating 12b-1 fees to its clients on a going-forward basis.

Revenue Sharing From Certain Mutual Funds

10. In the relevant period, the unaffiliated clearing broker ("Clearing Broker") that ONESCO contracted with to provide securities transaction clearing services used for client accounts offered an NTF program, which provided ONIMCO access to certain mutual funds. When ONIMCO's advisory clients invested in mutual funds on the NTF platform, the Clearing Broker shared with ONESCO a certain percentage of the NTF revenue that the Clearing Broker received from those mutual funds. The NTF revenue were expenses of the mutual funds, and thus, advisory clients invested in those funds indirectly paid the NTF revenue. The Clearing Broker no longer pays revenue sharing to ONESCO for ONIMCO client advisory assets invested on the NTF platform.

Revenue Sharing From Cash Sweep Money Market Funds

11. Since at least 2014, ONIMCO recommended that clients choose certain money market funds to hold uninvested cash ("Sweep Account Options"). A sweep account is a money market mutual fund or bank account used by brokerages to hold uninvested cash (*e.g.*, incoming cash deposits, dividends, or certain investment returns) until the investor or its adviser decides how to invest the money ("Sweep Account"). A money market fund is a type of mutual fund registered under the Investment Company Act of 1940 and regulated pursuant to Rule 2a-7 under that Act. Money market funds generally invest in short term, highly liquid securities with limited credit risk, and are frequently used as cash sweep account options. The investment yields and expense ratio of a money market fund will differ from fund to fund.

12. The Clearing Broker agreed to share with ONESCO a portion of the revenue the Clearing Broker received in connection with certain money market funds offered to Sweep Accounts. Under this arrangement, the Clearing Broker provided ONIMCO with a list of many money market funds as Sweep Account Options for ONIMCO's advisory clients. The amount of revenue sharing ONESCO received varied depending on the money market fund ONIMCO selected for advisory clients.

13. ONIMCO had a conflict of interest when it recommended Sweep Account Options to its clients. In particular, the money market funds available on the Clearing Broker's platform wherein ONESCO received revenue sharing generally charged higher fees and had at times returned lower investment yields to clients. Conversely, the money market funds available on the Clearing Broker's platform that paid no or lower revenue sharing generally charged lower fees and had at times returned higher investment yields to clients.

14. ONIMCO predominantly recommended and invested advisory clients' uninvested cash in a money market funds tier for which the Clearing Broker had agreed to pay ONESCO

revenue sharing even though the Clearing Broker made several money market funds available to ONIMCO's advisory clients that at times would have paid ONIMCO's clients higher yields, but for which ONESCO would have received less or no revenue sharing. When ONIMCO recommended Sweep Account Options to its clients, ONIMCO's interests were in conflict with its advisory clients' interests because ONIMCO had an incentive to recommend cash sweep products that paid the greatest amount of revenue sharing to ONESCO. ONIMCO has since transitioned the Sweep Account Options for its clients to money market funds that do not pay revenue sharing to ONIMCO, ONESCO, or any of ONIMCO's other affiliates.

Disclosure Failures

15. Since at least 2014, ONIMCO did not adequately disclose all material facts regarding the conflicts of interest that arose when it invested advisory clients in a mutual fund share class that would generate 12b-1 fees or revenue sharing for its affiliate while share classes of the same funds were available that did not pay or paid less 12b-1 fees and revenue sharing.

16. In the relevant period, ONIMCO's Form ADV stated that:

> [S]ome portfolio managers pay 12b-1 service fees, distribution fees, recordkeeping fees, and/or shareholder accounting fees to custodians and broker-dealers which offer such funds to the clients. These fees reduce the net asset value of mutual fund/ETF shares and are thus indirectly borne by fund shareholders, including clients of ONIMCO who may hold such investments.

17. Since at least 2014, ONIMCO did not disclose that ONESCO was receiving NTF revenue from client investments in advisory accounts or otherwise put clients on notice regarding the conflicts of interest inherent in this arrangement.

18. Since at least 2014, ONIMCO did not disclose ONESCO's receipt of revenue sharing from cash sweep products in which ONIMCO had invested its clients' assets, or otherwise put clients on notice regarding the conflicts of interest inherent in this arrangement.

19. In March 2019, ONIMCO amended its Form ADV Part 2A concerning revenue sharing payments to state:

> Additionally, ONIMCO retains no-transaction fee (NTF) and money market revenue-sharing payments from several funds that participate in those services to promote their funds. Revenue-sharing payments typically are paid from the fund advisor's management fee and are not directly borne by clients. However, ONIMCO has a conflict of interest with respect to the selection and retention of those mutual funds to choose those funds or share classes over other funds or share classes that do not make revenue sharing payments or make lower revenue-sharing payments, since doing so results in a higher compensation to ONIMCO. Revenue-sharing payments ONIMCO receives is material and is used to offset other costs for providing an advisory platform such as trading costs, prospectus fees, statement and confirm fees, printing and mailing costs of quarterly performance reports among other costs. ONIMCO does not share revenue-sharing payments with its IARs.

ONIMCO did not identify the updated disclosure as a "material change."

Duty of Care Failures

20. An investment adviser's fiduciary duty includes a duty of care. To fulfill this obligation, an adviser, among other things, must provide investment advice in the best interests of its clients based on the client's objectives and seek best execution for client transactions.[5]

21. By causing certain advisory clients to invest in certain mutual fund share classes when share classes of the same funds were available to the clients that presented a more favorable value under the particular circumstances in place at the time of the transactions, ONIMCO violated its duty to seek best execution for those transactions.

22. In the relevant period, ONIMCO determined that government, prime, and municipal money market funds were appropriate cash sweep vehicles for its advisory clients. ONIMCO, however, failed to consider alternative, lower-fee government, prime, and municipal money market funds offered by the Clearing Broker when selecting particular funds.

Compliance Deficiencies

23. In the relevant period, ONIMCO failed to adopt and implement written policies and procedures reasonably designed to prevent violations of the Advisers Act and the rules thereunder in connection with disclosure of conflicts of interest presented by its mutual fund share class selection practices, making recommendations of mutual fund share classes that were in the best interests of its advisory clients, receipt of cash sweep revenue, and receipt of service fee revenue.

Violations

24. As a result of the conduct described above, ONIMCO willfully[6] violated Section 206(2) of the Advisers Act, which prohibits an investment adviser, directly or indirectly, from engaging "in any transaction, practice or course of business which operates as a fraud or deceit upon any client or prospective client." Scienter is not required to establish a violation of Section 206(2), but rather a violation may rest on a finding of negligence. *SEC v. Steadman*, 967 F.2d 636,

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[5] *See, e.g.*, Interpretive Release Concerning the Scope of Section 28(e) of the Securities Exchange Act of 1934 and Related Matters, Exchange Act Rel. No. 23170 (Apr. 28, 1986).

[6] "Willfully," for purposes of imposing relief under Section 15(b) of the Exchange Act and 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[ed]" material information from a required disclosure in violation of Section 207 of the Advisers Act).

643 n.5 (D.C. Cir. 1992) (citing *SEC v. Capital Gains Research Bureau, Inc.*, 375 U.S. 180, 194-95 (1963)).

25. As a result of the conduct described above, ONIMCO 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.

Disgorgement

26. The disgorgement and prejudgment interest ordered in Section IV.C. is consistent with equitable principles and does not exceed Respondent's net profits from its violations, and will be distributed to harmed investors to the extent feasible. Upon approval of the distribution final accounting by the Commission, any amounts remaining that are infeasible to return to investors, and any amounts returned to the Commission in the future that are infeasible to return to investors, may be transferred to the general fund of the United States Treasury, subject to Section 21F(g)(3) of the Exchange Act.

Undertakings

27. Respondent ONIMCO has undertaken to:

a. Within 30 days of the entry of this Order, review and correct as necessary all relevant disclosure documents concerning mutual fund share class selection and 12b-1 fees, NTF revenue sharing, and Sweep Account revenue sharing.

b. Within 30 days of the entry of this Order, evaluate whether existing clients should be moved to a lower-cost mutual fund share class, mutual funds that do not result in ONESCO receiving NTF revenue, or alternative cash sweep products, and move clients as necessary.

c. Within 30 days of the entry of this Order, evaluate, update (if necessary), and review for the effectiveness of their implementation, ONIMCO's policies and procedures so that they are reasonably designed to prevent violations of the Advisers Act in connection with disclosures regarding mutual fund share class selection, NTF revenue sharing, and Sweep Account revenue sharing.

d. Within 45 days of the entry of this Order, notify affected investors (*i.e.*, those former and current clients who were financially harmed during each relevant period by the practices detailed above (hereinafter, "affected investors")) of the settlement terms of this Order by sending a copy of this Order to each affected investor via mail, email, or such other method not unacceptable to the Commission staff, together with a cover letter in a form not unacceptable to the Commission staff.

e. Within 60 days of the entry of this Order, certify, in writing, compliance with the undertakings set forth above. The certification shall identify the undertakings, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Commission staff may make reasonable requests for further evidence of compliance, and Respondent agrees to provide such evidence. The certification and supporting material shall be submitted to Corey A. Schuster, Assistant Director, Asset Management Unit, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549, or such other address as the Commission staff may provide, with a copy to the Office of Chief Counsel of the Division of Enforcement, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549.

f. For good cause shown, the Commission staff may extend any of the procedural dates relating to these undertakings. Deadlines for procedural dates shall be counted in calendar days, except that if the last day falls on a weekend or federal holiday, the next business day shall be considered the last day.

IV.

In view of the foregoing, the Commission deems it appropriate, and in the public interest to impose the sanctions agreed to in ONIMCO'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 Sections 206(2) and 206(4) of the Advisers Act and Rule 206(4)-7 thereunder.

B. Respondent is censured.

C. Respondent shall pay disgorgement, prejudgment interest, and a civil penalty, totaling $1,238,653 as follows:

(i) Respondent shall pay disgorgement of $866,257 and prejudgment interest of $162,396 consistent with the provisions of this Subsection C.

(ii) Respondent shall pay a civil money penalty in the amount of $210,000, consistent with the provisions of this Subsection C.

(iii) Pursuant to Section 308(a) of the Sarbanes-Oxley Act of 2002, as amended, a Fair Fund is created for the penalties, disgorgement, and prejudgment interest described above for distribution to affected investors. 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 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.

(iv) Within 10 days of the entry of this Order, Respondent's payment of the Fair Fund shall be made by depositing the full amount of the disgorgement, prejudgment interest, and civil penalty into an escrow account at a financial institution not unacceptable to the Commission staff and Respondent shall provide the Commission staff with 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 deposit 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.

(v) Respondent shall be responsible for administering the Fair Fund and may hire a professional 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.

(vi) Respondent shall distribute from the Fair Fund to each affected investor an amount representing: (a) the financial harm during each relevant period by the practices discussed above, and (b) reasonable interest paid on such amounts, pursuant to a disbursement calculation (the "Calculation") that will be submitted to, reviewed, and approved by the Commission staff in accordance with this Subsection C. The Calculation shall be subject to a *de minimis* threshold. No portion of the Fair Fund shall be paid to: (1) any affected investor account in which Respondent, or any of its current or former officers, directors, investment adviser representatives, or associated persons (or any of their spouses or children) have a financial interest; and (2) any affected investor account that was not charged advisory fees by Respondent.

(vii) Respondent shall, within 90 days of the entry of this Order, submit a Calculation to the Commission staff for review and approval. At or around the time of submission of the proposed 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 10 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 C.

(viii) Respondent shall, within 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 exact amount of the payment to be made from the Fair Fund to each affected investor; (3) the application of a *de minimis* threshold; and (4) the amount of reasonable interest paid. Respondent shall exclude from the Payment File all payments to payees that appear on the United States Treasury Department Specially Designated Nationals List.

(ix) Respondent shall complete the disbursement of all amounts payable to affected investors within 90 days of the date the Commission staff accepts the Payment File unless such time period is extended as provided in Paragraph (xiii) of this Subsection C. Respondent shall notify the Commission staff of the date(s) and the amount paid for each distribution.

(x) If Respondent is unable to distribute any portion of the Fair Fund for any reason, including an inability to locate an affected investor or a beneficial owner of an affected investor or any 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 Exchange Act when the distribution of funds is complete and before the final accounting provided for in Paragraph (xii) of this Subsection 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 ONIMCO as the 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 A. Schuster, Assistant Director, Asset Management Unit, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549, or such other address as the Commission staff may provide.

(xi) 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 shall be responsible for all tax compliance responsibilities associated with the Fair Fund, including but not limited to tax obligations resulting from the Fair Fund's status as a QSF. These responsibilities involve reporting and paying requirements of the Fair 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.

(xii) Within 150 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 instruction set forth in this Subsection C. The Respondent shall then submit to the Commission staff a final accounting and certification of the disposition of the Fair Fund for Commission approval. The final accounting shall be in a format to be provided by the Commission staff. The final accounting and certification shall include: (1) the amount paid to each affected investor, with the reasonable interest and post-order interest if applicable; (2) the date of each payment; (3) the check number or other identifier of money transferred to each affected investor; (4) the amount of any returned payment and the date received; (5) a description of any effort to locate an affected investor whose payment was returned or to whom payment was not made for any reason; (6) the total amount, if any, to be forwarded to the Commission for transfer to the United States Treasury; and (7) an affirmation that Respondent has made payments from the Fair Fund to affected investors in accordance with the Payment File approved

by the Commission staff. Respondent shall submit the final accounting and certification, together with proof and supporting documentation of such payment in a form acceptable to Commission staff, under a cover letter that identifies ONIMCO as the Respondent in these proceedings and the file number of these proceedings to Corey A. Schuster, Assistant Director, Asset Management Unit, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549, or such other address as the Commission staff may provide. Respondent shall provide any and all supporting documentation for the accounting and certification to the Commission staff upon its request, and Respondent shall cooperate with any additional requests by the Commission staff in connection with the accounting and certification.

(xiii) The Commission staff may extend any of the procedural dates set forth in this Subsection 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.

D. Respondent shall comply with the undertakings enumerated in Section III, paragraphs 27.a through 27.e above.

By the Commission.

Vanessa A. Countryman
Secretary