**June 30, 2006**

**ADMINISTRATIVE PROCEEDING**
**File No. 3-11524**

**UNITED STATES OF AMERICA**
**Before the**
**SECURITIES AND EXCHANGE COMMISSION**

| | | |
|---|---|---|
| In the Matter of<br><br>PILGRIM BAXTER & ASSOCIATES, LTD.,<br><br>Respondent. | : | PROPOSED PLAN OF DISTRIBUTION |

## 1 Introduction

1.1 This Distribution Plan sets forth the procedures by which to distribute to investors, for the period spanning June 1998 through December 2001, their proportionate share of the fund established to compensate such investors for injury they may have suffered as a result of market timing in Pilgrim Baxter mutual funds ("PBHG Funds"). The fund is not intended to compensate investors for losses they incurred because of fluctuations in securities markets.

## 2 The Engagement

2.1 Kenneth Lehn, Ph.D., has been engaged as the Independent Distribution Consultant ("IDC") in the captioned matter. In that capacity, Dr. Lehn is to develop a plan to distribute a fund collected by the Securities and Exchange Commission ("Commission") pursuant to three Commission orders related to the Commission's finding that, from June 1998 through December 2001, certain accountholders in the PBHG Funds engaged in short-term trading of PBHG Funds that violated restrictions placed on the annual number of permissible exchanges out of PBHG Funds as described in the PBHG Funds' prospectuses.[1]

---

[1] *In the Matter of Pilgrim Baxter & Associates, Ltd*., Admin. Proc. File No. 3-11524 (June 21, 2004) ("PBA Order"); *In the Matter of Gary L. Pilgrim*, Admin. Proc. File No. 3-11739 (Nov. 17, 2004) ("Pilgrim Order"); *In the Matter of Harold J. Baxter*, Admin. Proc. File No. 3-11740 (Nov. 17, 2004) ("Baxter Order") (collectively, the "Orders").

2.2 The PBA Order required Pilgrim Baxter & Associates, Ltd. ("PBA"),[2] investment adviser to the PBHG Funds during the period June 1998 through December 2001, to pay $90 million, including $40 million in disgorgement and $50 million in a civil penalty.

2.3 The Pilgrim Order required Gary L. Pilgrim ("Mr. Pilgrim"), former President, Chief Investment Officer, and Director of PBA, to pay $80 million, including $60 million in disgorgement and $20 million in a civil penalty.

2.4 The Baxter Order required Harold J. Baxter ("Mr. Baxter"), former Chief Executive Officer and Chairman of the Board of Directors of PBA, to pay $80 million, including $60 million in disgorgement and $20 million in a civil penalty.

2.5 Pursuant to the Orders, PBA, Mr. Pilgrim, and Mr. Baxter (collectively, the "Respondents") paid a total of $250 million. The money currently is being held as follows:

2.5.1 $90 million in escrow in a Fair Fund[3] maintained in connection with the PBA Order by the United States Department of the Treasury, Bureau of Public Debt ("Treasury"), earning interest through investment in short-term U.S. Treasury securities with maturities not to exceed six months ("Fair Fund1"). All interest earned will inure to the benefit of investors, except as otherwise provided in the Orders.

2.5.2 $160 million in escrow in a Fair Fund maintained in connection with the Pilgrim Order and the Baxter Order by the Treasury, earning interest through investment in short-term U.S. Treasury securities with maturities not to exceed six months ("Fair Fund2"). All interest earned will inure to the benefit of investors, except as otherwise provided in the Orders.

Fair Fund1 and Fair Fund2 each have separate taxpayer identification numbers. Prior to the establishment of the bank accounts referenced below, ¶¶8.3.2.1-8.3.2.2., and consistent with the Orders, which contemplate one distribution, Fair Fund2 (including any interest or earnings thereon) will be transferred to Fair Fund1. The aggregated account (including any interest or earnings thereon), referenced herein as the "Final Fair Fund," will be in the name and bearing the taxpayer identification number of Fair Fund1.

2.6 As the IDC, Dr. Lehn has been asked to develop a Distribution Plan for the distribution of the Final Fair Fund according to a methodology developed in

---

[2] Pilgrim Baxter & Associates, Ltd. has since changed its name to Liberty Ridge Capital, Inc ("LRC"). The entity is referenced herein, in short form, as "PBA".

[3] "Fair Fund" as defined in Section 308(a) of the Sarbanes Oxley Act of 2002.

consultation with PBA and acceptable to the staff of the Commission and the independent Trustees of the affected PBHG Funds (the "Distribution Plan"). The Distribution Plan is to "provide for investors to receive, from the monies available for distribution, in order of priority, (i) their proportionate share of losses suffered by the fund due to market timing, and (ii) a proportionate share of advisory fees paid by funds that suffered such losses during the period of such market timing."[4]

2.7 In completing this engagement, Dr. Lehn has been guided by the terms of the Orders and by the following assumptions. These assumptions are made solely for the purpose of developing the Distribution Plan and, for that sole purpose, are agreeable to the Commission, counsel for PBA, and to Dr. Lehn. These assumptions include the following:

2.7.1 At all relevant times, the PBHG Funds' prospectuses limited accounts to four exchanges from a PBHG Fund into the PBHG Cash Reserves Fund during each calendar year.

2.7.2 Market timing consists of short-term roundtrip exchanges from (into) a PBHG fund into (from) the PBHG Cash Reserve Fund by any one account in excess of the four exchange annual limit[5] disclosed in the PBHG Funds' prospectuses.[6]

2.7.3 Any losses suffered by PBHG Funds due to market timing are those associated with short-term roundtrip exchanges in excess of the four-exchange limit per PBHG Fund per calendar year.

2.8 This Distribution Plan relies on the findings in the Orders and the assumptions set forth above, and makes no independent assessment as to the legality of the market timing in PBHG Funds. As a result, the estimated dilution losses associated with market timing in PBHG Funds, as presented herein, are not intended to be, nor should they be interpreted to be, an estimate of damages associated with illegal

---

4 PBA Order at ¶ III.37.a.

5 To identify short-term roundtrip exchanges, in the empirical analysis that follows Dr. Lehn restricts the corresponding exchanges from and into the PBHG Cash Reserve Fund to those for which the time difference is no more than 30 calendar days. Dr. Lehn has replicated the analysis by extending the time difference between exchanges from and into the PBHG Cash Reserve Fund to 60 calendar days. The empirical results do not change significantly when short-term roundtrip exchanges are identified in this way.

6 This assumption encompasses more than 99.5% of the value of all trades by accounts represented to be associated with the "New York Broker" referred to in Section III.4 of the PBA Order, and reflects 100% of the value of all trades by accounts represented to be associated with the "hedge fund family" referred to in Section III.4 of the PBA Order.

timing in PBHG Funds. Rather, the estimated dilution losses were calculated as a means to allocate to investors, as compensation for losses suffered by the PBHG Funds, a proportionate share of the fixed settlement payments made by the Respondents, together with accrued interest.

2.9 It is the view of Dr. Lehn, the methodology described herein constitutes a fair and reasonable allocation of the Final Fair Fund in the context of the captioned matter.

## 3 Qualifications

3.1 Dr. Lehn is the Samuel A. McCullough Professor of Finance in the Katz School of Business at the University of Pittsburgh. He teaches graduate level courses in finance, including courses on business valuation, corporate governance, and corporate restructuring. He also teaches a finance course for law students in the School of Law at the University of Pittsburgh. His research, primarily in the field of corporate finance, has been published in leading academic journals in finance and economics, including the *Journal of Financial Economics*, *Journal of Finance*, *Journal of Political Economy*, *American Economic Review*, and the *Journal of Law and Economics*.

3.2 Dr. Lehn served as Chief Economist at the Securities and Exchange Commission during 1987 to 1991. He also served as Deputy Chief Economist at the Commission during 1984 to 1985. In these capacities, Dr. Lehn worked on numerous matters involving mutual funds with the Division of Investment Management and the Division of Enforcement. Since leaving the Commission in 1991, Dr. Lehn has testified on behalf of the Commission and the Department of Justice in many civil and criminal cases involving alleged violations of U.S. securities laws. He also has testified many times in private litigation involving alleged violations of securities laws.

3.3 He received a B.A. in economics from Waynesburg College in 1975, an M.A. in economics from Miami University in 1976, and a Ph.D. in economics from Washington University in 1981.

## 4 Representations

4.1 To the best of his knowledge, Dr. Lehn has received full cooperation from the Respondents, including access to data and individuals as requested.

4.2 Several people at Cornerstone Research have assisted Dr. Lehn in developing this Distribution Plan, including Jamie Meehan, Slava Karguine, and Yingcong Lan of Cornerstone Research. All work in this matter has been done under Dr. Lehn's direction.

4.3 Dr. Lehn has never been employed by PBA. Under the terms of the PBA Order, Dr. Lehn agrees that, for the period of this engagement and for a period of two years from completion of this engagement, he will not enter into any employment, consultant, or other professional relationship with PBA or "any of its present or former affiliates, directors, officers, employees, or agents acting in their capacity as such."

4.4 Pursuant to the terms of the PBA Order, Cornerstone Research and/or its representatives set forth above will not, without prior written consent of the independent Trustees of the PBHG Funds and the staff of the Commission, enter into any employment, consultant, attorney-client, auditing or other professional relationship with PBA, now LRC, or any of its present or former affiliates, directors, officers, employees, or agents acting in their capacity as such for the period of this engagement and for a period of two years after this engagement.

4.5 The conclusions Dr. Lehn has reached in this matter should be viewed as specific to this engagement and to the facts of this case, and may or may not apply elsewhere.

## 5 Background

5.1 In the Orders, the Commission found that the Respondents violated, variously, directly and/or indirectly, Section 17(a) of the Securities Act of 1933; Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 thereunder; Section 34(b) of the Investment Company Act of 1940; and Sections 204A, 206(1), and 206(2) of the Investment Advisers Act of 1940. None of the Respondents admitted or denied any of the Commission's findings in the Orders.

5.2 The Commission found, among other things, that contrary to the disclosures made in the prospectuses of all PBHG Funds since at least 1996, PBA, acting through Mr. Pilgrim and Mr. Baxter, allowed various accountholders to engage in transactions that violated the PBHG Funds' prospectus disclosures from at least June 1998 through December 2001. Specifically, the PBHG Funds' prospectuses disclosed that investors were limited to not more than four exchanges per year into the PBHG Cash Reserves Fund from any other PBHG Fund. Furthermore, the prospectuses did not indicate that there would be any exceptions to this policy. The Commission found, in relevant part, that PBA, acting through Mr. Pilgrim and Mr. Baxter, allowed various accountholders to make more than four exchanges per year into the PBHG Cash Reserves Fund from other PBHG Funds.

5.3 As stated above, the Respondents entered into separate agreements with the Commission, culminating in the Orders.[7] Under the terms of the Orders, the three defendants collectively agreed to make a total settlement payment of $250 million ($90 million by PBA and $80 million each by Mr. Pilgrim and Mr. Baxter), including $160 million in disgorgement ($40 million by PBA and $60 million each

[7] Simultaneous with their settlement with the Commission, the Respondents settled related litigation with the New York Attorney General. *N.Y. v. Pilgrim Baxter & Associates, Ltd., et al., Index No. 403728/2003* (N.Y. County).

by Mr. Pilgrim and Mr. Baxter) and $90 million in civil penalties ($50 million by PBA and $20 million each by Mr. Pilgrim and Mr. Baxter).

5.4 Pursuant to the PBA Order, Dr. Lehn was retained by PBA in September 2004 to develop a plan for distributing its $90 million settlement payment to accountholders in PBHG Funds who may have been affected by the alleged market timing described in the Order. After Mr. Pilgrim and Mr. Baxter settled with the Commission in November 2004, Dr. Lehn was asked to specifically include their collective payment of $160 million in the Distribution Plan.

5.5 Accountholders purchased shares in the PBHG Funds through one of three distribution channels. Each distribution channel presents unique challenges to the Distribution Plan, and the manner of distribution to each channel is described herein.

5.5.1 Direct Purchase Holders – Certain purchasers bought their shares directly through the distributor for the PBHG Funds by submitting an application with payment to either a third party transfer agent or to a PBA affiliated servicing company.

5.5.2 Holders in Omnibus Accounts – Other purchasers bought their shares through brokerage firms that functioned as the accountholder of record. Under this structure, the brokerage firm provided to the transfer agent, on a daily basis, customer transaction data concerning the number of shares purchased and sold by all customers on an aggregate basis. Specific information, such as a Tax Identification Number for each customer or account, was not provided.

5.5.3 Holders in Broker Dealer Accounts - Other purchasers bought their shares through brokerage firms that, for each account, provided to the transfer agent a unique identifier and information concerning the number of shares each unique identifier purchased or sold. Specific information, such as name and address, was not provided.

5.6 Dr. Lehn sets forth below the methodology used to develop the plan for calculating and distributing the Final Fair Fund to accountholders in the PBHG Funds during the relevant times.

## 6 Methodology Used to Develop Distribution Plan

6.1 <u>Identifying Market Timers</u>

6.1.1 To estimate the effect of transactions that allegedly violated the PBHG Funds' prospectus disclosures on accountholders in PBHG Funds, Dr. Lehn requested data on all transactions by all accounts in all PBHG

Funds during June 1998-2001 from PBA. PBA provided Dr. Lehn with a database independently compiled by Deloitte LLP in connection with PBA's settlement discussions with the Commission. Dr. Lehn understands that the Commission and PBA relied on this database in arriving at their settlement.

6.1.2 Upon receiving the Deloitte database, Dr. Lehn identified all accounts, other than omnibus accounts, in each PBHG Fund that made more than four exchanges in a calendar year into the PBHG Cash Reserve Fund. To identify short-term exchanges made by these accounts, Dr. Lehn restricted the corresponding exchanges from and into the PBHG Cash Reserve Fund to those for which the time difference is no more than 30 calendar days. Hereafter, accounts that made more than four exchanges in a calendar year into the PBHG Cash Reserve Fund and made short-term exchanges are referred to as "market timers."

6.1.3 Table 1 shows the number of market timers and the value of all trades by market timers in each fund during the period of June 1998 through December 2001. The table shows that the fund with the largest number of market timers was the Technology & Communications Fund (2,063), followed by the Growth Fund (927), Select Growth (903), and Emerging Growth Fund (658). The fund with the largest dollar volume of transactions by these accounts is the Growth Fund ($75 billion), followed by Technology & Communications ($27 billion), Emerging Growth ($13 billion), and Select Growth ($8 billion).

6.1.4 Similarly, Table 2 lists the number of market timers and the value of all trades by market timers across all funds in each quarter during the period June 1998 through December 2001. The table indicates that market timing activity was substantially higher during 2000-2001 than it was during 1998-1999.

## 6.2 Estimating Dilution Losses Associated with Trading by Market Timers

6.2.1 To estimate the dilution losses incurred by accountholders in PBHG Funds resulting from transactions by market timers during June 1998 through December 2001, Dr. Lehn estimated the total excess short-term profits earned by market timers in each of the PBHG Funds during the period June 1998 through December 2001.

## 6.3 Next Day NAV and Realized Profits Approaches

6.3.1 The amount of dilution losses associated with market timing is related to how the fund manager invests the cash flows invested by market timers in the fund. For example, if the fund manager fully invests the net cash flows in equity securities and/or equity derivatives the day after a frequent trader invests in the fund, and liquidates the equity investment the day after the frequent trader exits the fund, then the "next day NAV" approach is an appropriate way to estimate dilution losses associated with market timing (e.g., see Green and Hodges (2000)). Under this approach, dilution losses are equal to the sum of the frequent trader's first day profits and avoided loss on the day he exits the fund.

6.3.2 Alternatively, in Dr. Lehn's opinion, if the fund manager holds all of the frequent trader's net cash flows as cash (i.e., if he does not invest any of the frequent trader's cash flows in equity securities), then the "realized profits" approach is an appropriate way to estimate dilution losses associated with market timing. Under the realized profits approach, dilution losses are equal to the frequent trader's holding period profits.

6.3.3 A third possibility is that the fund manager invests some of the frequent trader's net cash flows in equity securities and holds the remainder in cash. In this case, dilution losses lie in between the dilution losses estimated under the next day NAV approach and the realized profits approach.

## 6.4 Empirical Analysis of How PBHG Fund Portfolio Managers Invested Cash Flows from Market Timers

6.4.1 To estimate how the PBHG Fund portfolio managers invested the net cash flows invested in the funds by market timers, Dr. Lehn estimates an ordinary least squares regression of the daily net equity purchases for each PBHG Fund. For each fund, he regresses daily net equity purchases on two variables: (i) net cash flows invested by market timers and (ii) net cash flows invested by other accounts. For each fund, he estimates ten separate regression models in which net cash flows invested by market timers and other accounts are measured as lagged variables, with lags of one through ten trading days before the day in which the fund's net equity purchases (i.e., the dependent variable) is measured. Dr. Lehn estimates the regressions over two sub-periods: 1998-1999, a period in which equity markets generally were rising substantially, and 2000-2001, a period in which equity markets generally were declining substantially.

6.4.2 Table 3 reports the results from estimation of the regression models. The results show that across all funds the coefficients on the net cash flows invested by market timers fluctuate between being positive and negative. The coefficient on this variable is positive and statistically significant at the 0.05 level in only two of the 80 regressions. The results do not allow one to reject the null hypothesis that the portfolio managers of the four funds held the market timers' cash flows as cash (i.e., they did not invest any of the market timers' cash flows in equity securities and/or equity derivatives).[8]

6.4.3 The results from the empirical analysis reported in Table 3 are consistent with a conversation Dr. Lehn had with PBA's Senior Investment Officer, who indicated that it is likely that market timers' cash flows were held as cash, at least by the Growth Fund, which was managed by Mr. Pilgrim, and, as seen below, accounts for almost two-thirds of the aggregate dilution losses incurred by PBHG accountholders. PBA's Senior Investment Officer did not have an opinion as to the likelihood that market timers' cash flows were held as cash in the other PBHG Funds during this period.

6.4.4 Based on the regression results reported in Table 3, it is Dr. Lehn's opinion that the realized profits approach is the appropriate way to estimate the dilution losses associated with market timers in the PBHG Funds.

6.4.5 The conclusion that the market timers' cash flows were not invested in equity securities also implies that accountholders in PBHG Funds incurred minimal losses due to transaction costs associated with changes to the funds' portfolios caused by market timers' transactions in PBHG Funds. As a result, in developing this Distribution Plan, Dr. Lehn focuses only on the dilution losses incurred by PBHG accountholders due to transactions in PBHG Funds by market timers.

## 6.5 Total Excess Short-Term Profits by Market Timers

6.5.1 To arrive at the percentage of the total settlement proceeds that should be distributed to accountholders of each fund on each day over this period, Dr. Lehn estimated the total excess short-term profits earned

---

8 Dr. Lehn obtained and examined data on the daily security holdings of the four PBHG Funds that account for almost all of the estimated dilution losses (Emerging Growth, Growth, Select Growth, and Technology & Communications) during the period of June 1998 through 2001. He found no evidence that the funds "equitized" their portfolios by investing in equity derivatives.

by market timers in each PBHG Fund on each day during the period June 1, 1998 through December 31, 2001. For reasons described in the previous section, he uses the realized profits approach to estimate the total excess short-term profits earned by market timers.

6.5.2 To illustrate how the dilution losses associated with market timing vary over time, Table 4 shows the total excess short-term profits earned by the market timers in each PBHG Fund in each quarter during the second quarter of 1998 through the fourth quarter of 2001.[9] The table shows that market timers earned total excess profits of $242.8 million in all PBHG Funds during the period. The total includes excess profits of approximately $14 million in 1998, $95 million in 1999, $12 million in 2000, and $122 million in 2001.

6.5.3 The excess profits earned by market timers, and hence, the dilution losses incurred by accountholders in PBHG Funds, are highly concentrated in three quarters: Q4 1999, Q1 2000, and Q2 2001. These three quarters account for approximately $255 million, or 105%, of the total excess profits. The reason that these three quarters account for more than 100% of the aggregate dilution losses is that the dilution losses incurred by accountholders in PBHG Funds during these quarters were offset in part by benefits that the accountholders received when the market timers' cash flows were held as cash during periods in which the market was declining in value.

6.5.4 The table also shows that the excess profits are also highly concentrated in four PBHG Funds. The Growth Fund accounts for approximately $165 million, or 68.1%, of the total excess profits, followed by the Emerging Growth Fund (approximately $50 million), the Technology and Communications Fund (approximately $18 million), and the Select Growth Fund (approximately $5 million). Together, the four funds account for approximately $238 million, or 98%, of the total excess profits.

6.5.5 Cross-tabulation of the data reveals that approximately $250 million, or 103.1%, of the excess profits earned by market timers in the PBHG Funds are accounted for by market timing in the four funds (Growth, Emerging Growth, Technology and Communications, and Select

[9] Dr. Lehn adjusted the profits for accumulation of prejudgment interest. For its calculation, Dr. Lehn applied the interest rate used by the IRS for corporate tax underpayments (Section 6621 of the Internal Revenue Code). The interest on the profits lost by a fund in a particular quarter is calculated by cumulative application of the IRS quarterly interest rates starting from the quarter when the profits were lost and ending December 2001.

Growth) during the three quarters (Q4 1999, Q1 2000, and Q2 2001). Accordingly, accountholders of those four funds during those three quarters incurred most of the dilution losses associated with market timing in the PBHG Funds.

## 7 The Distribution Plan

7.1 The excess profits earned by market timers in each PBHG Fund on each day during the period June 1, 1998 through December 31, 2001 is calculated as a percentage of the total excess profits of $242.8 million. The daily settlement proceeds for each fund on each day are then calculated as the percentage on that day times the $250 million (plus earned interest) in total settlement proceeds.

7.2 "Accountholders" of each PBHG Fund, including Direct Purchase Holders, Holders in Omnibus Accounts and Holders in Broker Dealer Accounts, are entitled to a prorated share of their PBHG Funds' daily settlement proceeds. The prorated share is to be calculated as the percentage of the value of the Fund held by an accountholder on a given day times the Fund's daily settlement proceeds.

7.3 For example, suppose an accountholder owned 0.1% of the Growth Fund on a day when Growth Fund accountholders are entitled to a total of $1 million in settlement proceeds. Under the Distribution Plan, the accountholder would receive $1,000 to compensate it for dilution losses associated with market timing in the Growth Fund on this day (i.e., 0.001 times $1 million).

7.4 To illustrate how the proportion of total settlement proceeds to be allocated varies over time, Table 5 presents the excess profits earned by market timers in each fund in each quarter as a percentage of the total excess profits of $242.8 million. These percentages effectively reflect the proportion of total dilution losses incurred by PBHG accountholders because of market timing over the period.

7.5 To illustrate how the amount of settlement proceeds to which accountholders in each fund are entitled varies over time, Dr. Lehn multiplies the quarterly percentages in Table 5 by $250 million, the total amount of the settlement proceeds before interest. These calculations, which are contained in Table 6, represent the distribution of the settlement proceeds across each PBHG Fund in each quarter during Q2 1998 through Q4 2001. Note that the distribution in a specific quarter can be negative because the negative amount (representing benefits to long-term accountholders from market timing) is used to offset positive amounts in other quarters for other funds.

7.6 Except as provided in ¶7.7 below, accountholders who engaged in market timing will not be eligible for a distribution unless the losses they incurred from market timing by other accountholders exceed the losses other accountholders incurred from their market timing. For example, suppose an accountholder engaged in market timing that is estimated to have resulted in $1 million of losses for other accountholders. Unless the losses this accountholder incurred from market timing by other accountholders exceed $1 million, this accountholder receives no distribution. If the losses this accountholder incurred from market timing by other accountholders exceed $1 million, then this accountholder receives a distribution that is net of the losses its market timing resulted in for other accountholders. If, for example, this accountholder incurred $1.5 million of losses from market timing by other accountholders, then this accountholder receives a distribution of $500,000 (i.e., $1.5 million minus $1 million).

7.7 The Respondents will not be eligible for a distribution under this Distribution Plan. In addition, accountholders who, prior to distribution under the Distribution Plan, are subject to order(s) of the Commission, a court, or other authority, by settlement or otherwise, of which Dr. Lehn has notice, finding them responsible for losses suffered by PBHG Funds in connection with the market timing of PBHG Funds during the period spanning June 1998 through December 2001, will not be eligible for a distribution under the Distribution Plan.

7.8 Only accountholders with an aggregate prorated share of at least $10 (including accounts that have negative aggregate damages) across all funds and quarters are eligible to receive a distribution from the Final Fair Fund. This decision is based on the conclusion that it is not cost effective to attempt to distribute amounts of less than $10 to individual accounts. The distribution amount per accountholder will be prorated so that the total amount sent to accountholders equals the amount available in the Final Fair Fund.

7.9 Any monies not distributed to individual accounts shall be distributed to the PBHG Funds based on the proportion of aggregate excess profits by market timers accounted for by each PBHG Fund. For example, suppose $20 million of the $250 million is not distributed to accountholders (including both individual and omnibus accounts). Then $13.61 million of the settlement proceeds will be distributed to the PBHG Growth Fund (i.e., $20 million times 0.681 (the proportion of aggregate excess profits earned by market timers in the Growth Fund)).

## 8 Distribution of Funds

8.1 Fund Administrator. Boston Financial Data Services ("BFDS") has been selected by Dr. Lehn to serve as Fund Administrator pursuant to Rule 1105 of the Commission's Rules of Practice, 17 C.F.R. §201.1105 (the "Fund Administrator"). BFDS, founded in 1973, is a third-party service provider that provides transfer agency services to over 145 fund companies. BFDS has extensive experience in both the settlement administration industry (over 11 years) and the mutual fund industry (over 30 years). BFDS will be compensated for its time and expenses by one or more of the Respondents in accordance with the terms set forth in the Orders. Under the supervision of Dr. Lehn, BFDS will perform the duties and obligations set forth herein, including overseeing the administration of the Final Fair Fund; distributing funds from the Final Fair Fund to accountholders in accordance with the Distribution Plan; preparing and submitting to the staff in accordance with Rule 1105(f) periodic accountings of all monies earned or received and all monies spent in connection with the administration of the Distribution Plan; and, with Dr. Lehn, submitting a final accounting for approval by the Commission and/or its delegate.

8.2 Limitation on Liability. The IDC and the Fund Administrator, and/or each of their designees, agents and assistants, shall be entitled to rely on any Orders issued in this proceeding by the Commission, the Secretary by delegated authority, or an Administrative Law Judge, and may not be held liable to any person for any act or omission in the course of administering the Distribution Fund, except upon a finding in this proceeding that such act or omission is caused by such party's gross negligence, bad faith or willful misconduct, reckless disregard of duty, or reckless failure to comply with the terms of the Distribution Plan. This limitation on liability clause also applies to any order(s) to distribute additional funds, as further described below, ¶8.16.

8.3 Custody of the Final Fair Fund and Other Security Issues.

8.3.1 The Final Fair Fund, Fair Fund1, and Fair Fund2 constitute Qualified Settlement Funds ("QSF") under Section 468B(g) of the Internal Revenue Code, 26 U.S.C. §468B(g), and related regulations, 26 C.F.R. §§1.468B-1 through 1.468B-5.

8.3.2 The Commission has custody of the Final Fair Fund and shall retain control of the assets of the Final Fair Fund. As set forth above, ¶2.5, all components of the Final Fair Fund are currently deposited at Treasury.

8.3.2.1 Upon approval of the Distribution Plan by the Commission, the IDC, BFDS, and Deutsche Bank Trust Company Americas ("DBTCA" or the "Bank") shall establish an escrow account at DBTCA in the name of and bearing the Taxpayer Identification Number of the Final Fair Fund (the "Escrow Account"). The escrow agreement (the "Escrow Agreement") must be acceptable to the Commission staff and shall provide that the escrowed funds be (i) invested as soon as reasonably possible in AAA- rated Money Market Mutual Funds registered under the Investment Act of 1940 ("Investment Act") that invest in short term U.S. Treasury securities and obligations backed by the full faith and credit of the U.S. Government; and (ii) distributed only in accordance with the validated Issue List described below, ¶8.4.1, except as provided herein with respect to taxes. Any and all taxes payable on account of income earned by the money in the escrow account shall be timely paid from funds in the escrow account, and the escrow agent is expressly authorized and directed to work with the IDC, BFDS, and the Tax Administrator (defined below, ¶8.12.1) to make such payments.

8.3.2.2 Upon approval of the Distribution Plan by the Commission, the IDC, BFDS, and the Bank shall further establish a controlled disbursement account in the name of and bearing the Taxpayer Identification Number of the Final Fair Fund (the "Distribution Account"). All funds will remain in the Escrow Account pursuant to the Escrow Agreement until needed to satisfy a presented check or wire instruction. At that time, and subject to the controls set forth below, the amount needed to satisfy any presented check will be transferred to the Distribution Account and immediately paid out. For any payment to be made by wire instruction, and subject to the controls set forth below, funds will be paid by the Escrow Agent from the Escrow Account in accordance with written instructions provided to the Escrow Agent by parties authorized by the Escrow Agreement.

8.3.2.3 BFDS shall be the signer on the Distribution Account, supervised by Dr. Lehn and subject to the continuing jurisdiction and control of the Commission. BFDS shall authorize the Bank to provide information on the Escrow Account and the Distribution Account to the Tax Administrator. Under the supervision of the IDC, and at the direction of BFDS, the Bank shall use the assets and earnings of the Final Fair Fund to provide payments to eligible accountholders and to provide the Tax Administrator (defined below, ¶8.12.1) with assets to pay, as appropriate, tax liabilities and tax compliance fees and costs. The Escrow Account shall be invested in AAA- rated Money Market Mutual Funds further described above, ¶8.3.2.1, of a type and term necessary to meet the cash requirements of the payments to eligible accountholders, tax obligations, and fees.

8.3.2.4 The Bank has provided Dr. Lehn with an attestation that all funds in the Escrow Account and the Distribution Account will be held for this Distribution Plan and that the Bank will not place any lien or encumbrance of any kind upon the funds. All interest earned on the monies will inure to the benefit of investors except as otherwise provided in the Orders or herein. All costs associated with the Escrow Account and the Distribution Account will be borne exclusively by one or more of the Respondents, in accordance with the Orders. Upon the Bank's receipt of funds from the Treasury, the Bank shall promptly deposit the funds into the Escrow Account.

8.3.3 BFDS maintains and will continue to maintain until termination of the Final Fair Fund, a Financial Institutions (FI) Bond and errors and omissions insurance coverage. The financial strength of the primary insurers, as of the most recent renewal of the coverage, was rated "A+" by A.M. Best. The FI Bond provides protection against employee dishonesty, forgery or fraudulent alteration of securities, and electronic and computer crime exposures, which include losses due to transfer, payment or delivery of funds as a result of fraudulent input, preparation or modification of computer instructions, data or fraudulent electronic transmissions or communications. BFDS's professional liability insurance protects against errors and omissions committed by employees of BFDS in the course of their performance of professional services. Documentation of coverage has been provided to the assigned SEC staff for review and that coverage has been deemed "not unacceptable."

8.3.4 The Bank maintains, among other insurance, a Financial Institution Blanket Bond, and errors and omissions insurance coverage. The financial strength of the primary insurers, as of the most recent renewal of the coverage, was rated "A++" and "A+," respectively, by A.M. Best. The Bank annually assesses the adequacy of its policy limits through extensive analysis of historical loss data, exposure to loss and internal company controls. The Banks' limits are reviewed annually by the company's Board of Directors. Documentation of coverage has been provided to the assigned SEC staff for review and that coverage has been deemed "not unacceptable."

8.4 Additional Distribution Controls. Following approval of the Distribution Plan, and in order to maximize the security of the Final Fair Fund, the following procedures will be followed in connection with the Final Fair Fund:

8.4.1 BFDS will provide to Dr. Lehn a list identifying eligible accountholders through multiple identifiers; including name, address, and tax identification number (the "Issue List"). The Issue List will be validated by BFDS at the direction of Dr. Lehn through the performance of procedures and methodologies chosen by Dr. Lehn. The validation will state that the Issue List was compiled in accordance with the Distribution Plan and provides all currently known information necessary to make distribution to each eligible accountholder. At Dr. Lehn's direction, BFDS will provide the validated Issue List to the Bank. The validated Issue List will be used in connection with the Positive Pay System and other controls described below.

8.4.2 Dr. Lehn will provide a copy of the validated Issue List to the Commission staff with the names, addresses, and tax identification numbers of eligible accountholders redacted (the “Redacted Issue List”). Dr. Lehn will certify to the Commission staff that, aside from the redactions, the Redacted Issue List is identical in all respects to the validated Issue List provided to the Bank. Upon receipt of the Redacted Issue List, the Commission staff will, as appropriate, obtain authorization from the Commission or its delegate to disburse.

8.4.3 Upon authorization by the Commission, the Commission staff will direct the release of the Final Fair Fund from Treasury to the Escrow Account for distribution as provided herein.

8.4.4 In connection with each instance of release of funds to the Escrow Account in accordance with ¶8.4.10, below, Dr. Lehn, Commission staff, and BFDS will establish a set “Mailing” date, or date on which BFDS will transmit all checks or wires to eligible accountholders intended to be funded with the released funds.

8.4.5 In connection with each instance of release of funds in accordance with ¶8.4.10, below, the Commission staff will direct that the funds be released to the Escrow Account on the day before the agreed-upon mailing date. The staff’s direction will be based upon the Redacted Issue List and the representation by BFDS that all amounts intended to be funded with the released funds will be transmitted to eligible accountholders by check or wire on the mailing date. BFDS will use its best efforts to mail and/or transmit distribution checks or wire transfers within one (1) business day of the Escrow Account’s receipt of the funds. All efforts will be coordinated to keep the time between the receipt of the funding and the transmittal process at a minimum.

8.4.6 Upon presentation of an outstanding check, and subject to the controls set forth below, the exact amount needed to satisfy the presented obligation will be transferred from the Escrow Account to the Distribution Account and immediately paid out. As stated in ¶8.3.2.2, for any payment to be made by wire instruction, funds will be distributed by the Escrow Agent from the Escrow Account in accordance with written instructions provided to the Escrow Agent by parties authorized by the Escrow Agreement.

8.4.7 The Positive Pay system, further described in the Positive Pay Guide for BFDS dated March 17, 2006, will be used to control distributions from the Distribution Account, requiring, among other things, confirmation by the Bank that all checks presented for payment match the identifiers and amounts on the validated Issue List prior to payment of the presented obligation.

8.4.8 Upon the Bank's receipt of a wire instruction, and subject to the controls set forth below, the exact amount needed to satisfy the presented obligation will be paid by the Escrow Agent from the Escrow Account in accordance with the wire instruction.

8.4.9 Upon the Bank's receipt of a wire instruction, the Bank will take the following steps before the Escrow Agent will release any funds from the escrow account:

8.4.9.1 An administrative employee of the Bank will:

8.4.9.1.1 Confirm that the payee, amount, and other identifiers on the wire instruction match a listed payee and payment on the validated issue list;

8.4.9.1.2 Check that the signatures on the wire instruction are those of the persons authorized to issue wire instructions in the Escrow Agreement and that the wire instruction is otherwise complete and in accordance with the Escrow Agreement; and

8.4.9.1.3 Input the wire instructions into the computer system of the Bank.

8.4.9.2 A Bank officer will compare the wire instruction entered by the administrative employee into the Bank computer system with the original wire instruction prior to approving the wire instruction for execution by the Escrow Agent.

8.4.9.3 Upon the Bank officer's approval of the wire instruction for execution, the Escrow Agent will release the exact amount needed to satisfy the presented wire transfer in accordance with the wire instruction.

8.4.10 At no time will there be a larger monetary amount, in the aggregate, in the Escrow Account and the Distribution Account, than the amount covered by the Bank's errors and omissions insurance. BFDS will perform a strategic analysis and accountholders eligible to receive distributions totaling $125 million dollars will be culled out from the total population. BFDS will request funding for the $125 million dollars from the Commission staff. Once the $125 million has been transferred to the Escrow Account, distribution checks will be produced, balanced, samples validated, and mailed to the eligible accountholders. Once $75 million dollars in payments has cleared the Escrow Account, an additional payment population totaling no more than $75 million dollars will be selected, funding requested and the mailing process repeated. This method will be applied until the total population of payments has been processed. As appropriate, outstanding large dollar checks will be monitored and the eligible accountholder contacted to determine if assistance can be offered to speed the presentment for payment of the outstanding check(s).

8.4.11 The Bank will reconcile the aggregate amounts of transfers in and out of the Escrow Account and the Distribution Account on a daily basis. BFDS, on a daily basis and using electronic "view functions" provided by the Bank, will confirm that: the aggregate monetary amount is $125 million or less; the Escrow Account and the Distribution accounts reconcile; and, with respect to each instrument presented, that the proper amounts were released from the appropriate account. BFDS will regularly update the IDC as to the reconciliation of the Escrow Account and Distribution Account. Account and will alert the IDC and the staff of the Commission as soon as possible under the circumstances upon the detection of any irregularity that is not resolved in the ordinary course of business. As appropriate, outstanding large dollar checks will be monitored and the eligible accountholder contacted to determine if assistance can be offered to speed the presentment for payment of the outstanding check(s).

8.5 Oversight and Costs. BFDS will assist Dr. Lehn in administering this Distribution Plan. Dr. Lehn has oversight authority over BFDS in the conduct of its duties with respect to this engagement and BFDS will keep Dr. Lehn informed as to work on this engagement. Except as otherwise provided herein, the Respondents are responsible for all costs associated with the administration of the Distribution Plan, divided in the manner specified in the Orders.

8.6 Procedures for Identifying and Distributing to Eligible Accountholders. BFDS will identify and make distributions to eligible accountholders in several ways, depending on the distribution channel through which the investor purchased the shares. The manner in which the accountholders will be identified and paid is as follows:

8.6.1 Direct Purchase Holders: BFDS will use records provided by PBA and transfer agency records to identify each Direct Purchase Holder and determine the shares held by each on a daily basis. BFDS will then, in accordance with the Distribution Plan and under the supervision of Dr. Lehn, determine the distribution amount payable to each eligible accountholder.

8.6.2 Holders in Omnibus Accounts: Under the supervision of Dr. Lehn, BFDS will identify and determine the Distribution Amount for these accountholders as follows:

8.6.2.1 BFDS will use transfer agent records and other PBA resources to identify “Omnibus Accounts”

8.6.2.2 BFDS will, in accordance with the Distribution Plan, determine “net” shares held in each Omnibus Account on a daily basis;

8.6.2.3 Under the supervision of Dr. Lehn, BFDS will calculate the total amount due to each Omnibus Account using the methodology set forth in the Distribution Plan;

8.6.2.4 BFDS will engage in an “Outreach Process” by which BFDS will contact each “Omnibus Account Brokerage Firm” with provisional distributions of $1,000 or more and request individual accountholder records (i.e., shares held by each accountholder on each day). The individual accountholder name and address, as well as the Tax Identification Number, for each account within the Omnibus Account, will be requested from the Omnibus Account Brokerage Firm that sold the PBHG Funds in this manner. The accounts that are directly underlying the Omnibus Account will be referred to as “Tier 1”.

8.6.2.5 BFDS will make commercially reasonable efforts to protect the privacy and confidentiality of the data, including accountholder data, in any and all communications with PBA, by using unique account identifiers;

8.6.2.6 Upon receipt of the individual accountholder records from each Omnibus Account Brokerage Firm, BFDS will, in accordance with the methodology set forth in the Distribution Plan, calculate the amount due each Tier 1 account.

8.6.2.7 BFDS will maintain records of efforts made to obtain the cooperation of the Omnibus Account Brokerage Firm and of the responses to these efforts. After 60 days from the approval of the Distribution Plan, the Outreach Process will cease, unless otherwise directed by Dr. Lehn. In the event that an Omnibus Account Brokerage Firm cannot or will not provide to BFDS the requested individual accountholder records, or fails to provide to BFDS the requested records within a reasonable time, BFDS will offer to that brokerage firm information to enable the brokerage firm to make the distribution, at its own cost, in accordance with the legal duties of the brokerage firm and, if consistent with its legal duties, in accordance with this Distribution Plan.

8.6.3 Holders in Broker Dealer Accounts: Under the supervision of Dr. Lehn, BFDS will determine the Distribution Amount for these accountholders as follows:

8.6.3.1 BFDS will use transfer agent records and other PBA resources to identify "Broker Dealer Accounts"

8.6.3.2 BFDS will, in accordance with the Distribution Plan, determine "net" shares held in the Broker Dealer Accounts on a daily basis;

8.6.3.3 BFDS will, in accordance with the Distribution Plan, calculate the total amount due to the Broker Dealer Accounts using the methodology set forth above;

8.6.3.4 BFDS will engage in an "Outreach Process" by which BFDS will contact each "Broker Dealer Firm" with provisional distributions of $1,000 or more and request individual accountholder identification information. The individual accountholder name and address, as well as the Tax Identification Number, typically the individual's Social Security Number, will be requested for each of these accounts. This information will be requested from the Broker Dealer Firms identified in the records of the PBHG Funds as having sold the PBHG Funds in this manner. The accounts that are directly underlying the Broker Dealer Accounts will be referred to as "Tier 1".

8.6.3.5 BFDS will make commercially reasonable efforts to protect the privacy and confidentiality of the data, including accountholder data, in any and all communications with PBA, by using unique account identifiers;

8.6.3.6 Upon receipt of the individual accountholder records from each Broker Dealer Firm, BFDS will, in accordance with the methodology set forth in the Distribution Plan, calculate the amount due each Tier 1 account.

8.6.3.7 BFDS will maintain records of efforts made to obtain the cooperation of the Broker Dealer Firm and of the responses to these efforts. After 60 days from the approval of the Distribution Plan, the Outreach Process will cease, unless otherwise directed by

Dr. Lehn. In the event that a Broker Dealer Firm cannot or will not provide to BFDS the requested individual accountholder records, or fails to provide to BFDS the requested records within a reasonable time, BFDS will offer to that Broker Dealer Firm information to enable the firm to make the distribution, at its own cost, in accordance with the legal duties of the firm and, if consistent with its legal duties, in accordance with this Distribution Plan.

8.6.4 Embedded Omnibus Accounts

8.6.4.1 To the extent that the accountholder identification information provided to BFDS in accordance with ¶¶8.6.2.4 and 8.6.3.4 in turn identifies "Omnibus Accounts" or "Broker Dealer Accounts," BFDS will proceed as described in ¶¶8.6.2.6 and 8.6.3.6, above, treating the accountholder as a Tier 1 purchaser.

8.6.4.2 The Intermediary of any non-IRA retirement account shall distribute any monies received pursuant to the Distribution Plan in accordance with its fiduciary, contractual, and/or legal obligations, and consistent with guidance issued by the Department of Labor, if any.

8.7 In accordance with the Orders, the Respondents will bear the costs and expenses associated with the administration of the Distribution Plan, including the reasonable administrative costs incurred by Omnibus Holder Brokerage Firms and Broker Dealer Firms for identifying individual accountholder records in connection with the Distribution Plan. Requests for reimbursement from Omnibus Holder Brokerage Firms or Broker Dealer Firms will be paid to the extent that such costs are commercially reasonable in light of the amount to be distributed to such firms. All reimbursement requests are subject to final review by Dr. Lehn.

8.8 Data Accuracy. All brokerage firms providing information to BFDS will be required to attest to Dr. Lehn that to the best of their knowledge the information they provide is true and accurate.

8.9 Affected Accountholders. Even though the Distribution Plan does not anticipate soliciting accountholder information directly from affected investors, it can be expected that a limited number of accountholders will contact Dr. Lehn, or others, to request a distribution. If this occurs, the information received will be compared to the data obtained by Dr. Lehn during the course of the engagement to 1) ensure accurate account information and 2) avoid any duplication of payment. This information will be forwarded to BFDS for processing.

8.10 Notice and Accountholder Communications. The Distribution Plan will utilize the following methods to provide notifications and information to affected accountholders. These services will become active at least by the time of the first distribution. The Commission retains the right to review and approve any material posted on the various websites.

8.10.1 PBA Website. PBA will maintain a PBHG Fund website that will provide all affected accountholders of the PBHG Funds with regular and ongoing updates about the Distribution Plan, including notice of the proposed plan, instructions on how to obtain copies of the proposed plan, and how to submit comments on the proposed plan to the Commission. The website will provide a link to the Commission's website, which is: http://www.sec.gov/divisions/enforce/claims/pilgrimbaxter.htm.

8.10.2 Notice of a Proposed Plan and Opportunity for Comment by Non-parties. Pursuant to the Commission's Rule of Practice 1103, 17 C.F.R. §201.1103, notice of the proposed Distribution Plan shall be published in the SEC Docket and on the websites listed below. The notice shall specify how copies of the proposed plan may be obtained and shall state that persons desiring to comment on the proposed plan may submit their views, in writing, to the Commission. Comments received will be publicly available. Persons should submit only information that they wish to make publicly available. As set forth in the Commission's Rule of Practice 1106, 17 C.F.R. §1106, other than in connection with this comment period, no person shall be granted leave to intervene or to participate or otherwise to appear in any agency proceeding or otherwise to challenge the Distribution Plan, or an order approving, approving with modifications, or disapproving the Distribution Plan; or any determination relating to the Distribution Plan based solely upon that person's eligibility or potential eligibility to participate in a fund or based upon any private right of action such person may have against any person who is also a respondent in the proceeding.

- http://www.sec.gov/divisions/enforce/claims/pilgrimbaxter.htm
- http://www.pbhgfunds.com/inside/lrc.asp

8.10.3 Final Approved Plan. The Final Approved Plan will be posted on the following free public web sites:

- http://www.sec.gov/divisions/enforce/claims/pilgrimbaxter.htm
- http://www.pbhgfunds.com/inside/lrc.asp
- http://www.pbafairfundsettlements.com/

8.10.4 Frequently Asked Questions. In addition to the Final Approved Plan, a list of "Frequently Asked Questions" ("FAQS") will be posted on the following websites:

- http://www.pbhgfunds.com/inside/lrc.asp
- http://www.pbafairfundsettlements.com/

8.10.5 Accountholder Call Center. PBA has contracted with BFDS to operate a toll-free accountholder call center. Accountholders will have the option of speaking to an individual, who will be properly trained by BFDS using pre- approved scripts to respond to accountholder inquiries. Separate toll free numbers will be created for direct and omnibus accountholders. These numbers will be published in the Letter that accompanies the distribution checks.

8.11 Initial Distribution. Upon the Commission's approval, and subject to ¶8.12.4, below, Dr. Lehn will direct BFDS to implement the Distribution Plan. The Commission retains jurisdiction over the implementation of the Distribution Plan.

8.11.1 All payments shall be preceded or accompanied by a communication (the "Letter") that includes, as appropriate: (a) a statement describing the distribution; (b) a description of the tax information reporting and other related tax matters; (c) a statement that checks will be void after 90 days; and (d) the name of a person to contact, to be used in the event of any questions regarding the distribution. Where applicable, the Letter also will direct Intermediaries of Embedded Omnibus Accounts to distribute any monies received pursuant to the Distribution Plan in accordance with their fiduciary, contractual, and/or legal obligations, and consistent with guidance issued by the Department of Labor, if any. The Letter or other communication to eligible accountholders describing their distributions shall be submitted to the assigned Commission staff for review and approval. Distribution checks, on their face or in the accompanying mailing, will clearly indicate that the money is being distributed from a Commission Fair Fund.

8.11.2 All accountholders whose distribution is less than the taxable threshold that includes a taxable component will receive the Letter and their distribution checks.

8.11.3 All accountholders whose distribution exceeds the taxable threshold and includes a taxable component will receive the Letter, Form 1099 (or similar document), and their distribution check.

8.11.4 It is expected that all distribution checks will be mailed, via the United States Postal Service ("USPS"), to the eligible accountholders' last know address of record. All checks drawn on the Account will bear the legend "Void after 90 days." A wire transfer may be made in lieu of a check payment where efficiencies dictate. Unless specific direction is provided by Dr. Lehn or the Commission staff, checks that are not negotiated within the 90-day period will not be honored and BFDS will instruct the Bank to refuse payment on those checks.

8.11.5 BFDS has agreed to provide regular updates and reconciliations to Dr. Lehn, and will provide a final reconciliation of all un-distributed funds to Dr. Lehn.

8.12 <u>Tax Issues</u>. The methods of calculation of each accountholders' share of the Final Fair Fund are intended to result in a payment to each eligible accountholder that restores the impaired value of the accountholder's investment in affected PBHG Funds.

8.12.1 <u>Tax Administrator</u>. The Commission has appointed Damasco & Associates ("Damasco") as the Tax Administrator of the Final Fair Fund ("Tax Administrator").[10] Dr. Lehn, BFDS, and the Respondents will cooperate with the Tax Administrator in providing information necessary to accomplish the income tax compliance, ruling and advice work assigned to the Tax Administrator by the Commission. The Tax Administrator shall be compensated by the Respondents in accordance with the Orders.

8.12.2 <u>FairFund2 Tax Obligation</u>. Upon the combination of Fair Fund2 with Fair Fund1, described above in ¶2.5., the Tax Administrator will prepare a final tax return for Fair Fund2.

8.12.3 <u>Other Tax Obligations</u>. Dr. Lehn will consult with the Tax Administrator regarding the Final Fair Fund's income tax compliance, reporting and withholding obligations, if any. Dr. Lehn shall work with the Tax Administrator to make adequate reserves for tax liability and any costs of tax compliance not required to be paid by the Respondents.

---

[10] *See* Investment Advisers Act of 1940, Release No. 2458 (12/7/2005) and Investment Company Act of 1940 Release No. 27181 (12/7/2005) (Fair Fund1); Securities Exchange Act of 1934 Release No. 51341 (3/9/2005) (Fair Fund2).

8.12.4 IRS Ruling and Estimated Distribution Duration. No money shall be distributed pursuant to the Distribution Plan prior to the receipt of the Ruling by the IRS in connection with the Private Letter Ruling currently being sought by the Tax Administrator (the "IRS Ruling").

8.12.4.1 In the event that IRS Ruling does not require reporting of any distributions made pursuant to the Distribution Plan; and provided that the Commission has approved the Distribution Plan, the period for omnibus outreach has expired in accordance with ¶8.6.2.7 and ¶8.6.3.7 above, and that the Fund Administrator has completed its final calculation of the amount to be distributed to each eligible accountholder and associated validations, the Fund Administrator will use its best efforts to: (i) start the distribution within two weeks of the date of its receipt of the IRS Ruling, and (ii) complete the distribution within four months of the transfer of the final payment population to the Escrow Account in accordance with ¶8.4.10.

8.12.4.2 In the event the IRS Ruling requires reporting of all or a portion of the distributions made pursuant to the Distribution Plan; and provided that the Commission has approved the Distribution Plan, the period for omnibus outreach has expired in accordance with ¶8.6.2.7 and ¶8.6.3.7 above, and the Fund Administrator has completed its final calculation of the amount to be distributed to each eligible accountholder and associated validations, the Fund Administrator will use its best efforts to: (i) start the distribution within two weeks of the deadline for returning any back-up withholding or other tax forms from eligible investors required by the IRS Ruling, and (ii) complete the distribution within four months of the transfer of the final payment population to the Escrow Account in accordance with ¶8.4.10.

8.13 Claims Process. The Final Fair Fund is not being distributed according to a claims-made process, so the procedures for providing notice and for making and approving claims are not applicable.

8.14 Locating Accountholders. Returned and/or undelivered mail and checks will be handled as follows:

8.14.1 All mail returned by the USPS for which a new forwarding address has been provided by the USPS will be immediately repackaged and sent to the new address. The master database will be updated with the new address.

8.14.2 All mail returned by the USPS for the first time, without a new forwarding address, will be coded as returned mail, the check will be voided, and current account information forwarded to InfoAge for address research. If a new address is found, that address will be updated to the master database and a new check will be issued. If no new address is found, the original check will remain voided. Additional efforts to identify the addresses of eligible accountholders will be conducted as is commercially reasonable in the view of Dr. Lehn, where the costs of further research and the amount to be distributed will be considered.

8.14.3 All mail returned by the USPS from a second attempted mailing, for which a new forwarding address has been provided by the USPS, will be immediately repackaged and sent to the new address. The master database will be updated with the new address.

8.14.4 All mail returned by the USPS from a second attempted mailing, without a new forwarding address, will be coded as returned mail and the check will be voided. Additional efforts to identify the addresses of eligible accountholders will be conducted as is commercially reasonable in the view of Dr. Lehn, where the costs of further research and the amount to be distributed will be considered.

8.14.5 All uncashed checks returned as undeliverable will be coded as "Returned Post Office" (RPO). These RPO checks will be marked "VOID" directly on the check, coded into the settlement database, and stored in a secure facility.

8.15 Special Circumstances. It is anticipated that distribution checks will be returned to BFDS for various reasons, including the death, divorce, incapacitation, bankruptcy, or dissolution of the affected eligible accountholder. BFDS and/or Dr. Lehn will resolve and process these distributions on a case-by-case basis.

8.16 Receipt of Additional Funds. Fair Fund1 and Fair Fund2 have been deposited at Treasury for investment in government obligations and they will receive additional funds in the form of interest from these investments and the investments by the Bank described above, ¶¶ 8.3.2.1 and 8.3.2.3. In addition, from time to time, persons whom, or entities which, are alleged by the Commission in a separate proceeding to have participated in market timing of the PBHG Funds ("Additional Funds Proceeding") may enter into settlements with the Commission resulting in an order from a court or the Commission; or may be otherwise subject to order(s) of the Commission, a court, or other authority; directing them to make payments to Fair Fund1 or the Final Fair Fund ("Additional Funds Order"). Any such payments will be deemed, without further analysis by Dr. Lehn, to be intended to compensate accountholders in the PBHG Funds for losses suffered in connection with market timing in the PBHG Funds for the period spanning June 1998 through December 2001 ("Additional Funds”). Dr. Lehn shall distribute the Additional Funds to eligible accountholders in accordance with the Distribution Plan, including the limitations on distributions of any *de minimis* amount described in ¶7.8; provided, however that:

8.16.1 Fair Fund1 or the Final Fair Fund receive the Additional Funds prior to the final calculation of the amount to be distributed to each eligible accountholder ("Distributable Share of Record Owners"); and

8.16.2 The Additional Funds Order provides that all expenses related to the distribution of the Additional Funds shall:

8.16.2.1 Be borne by the party or parties subject to such Additional Order, and such distribution expenses are paid to BFDS as Fund Administrator by the party or parties so ordered in advance of the final calculation of the Distributable Share of Record Owners; or

8.16.2.2 Be paid out of the Additional Funds.

In the event that the Distributable Share of Record Owners has already been calculated when the Additional Funds are received or prior to payment in accordance with ¶8.16.2.1, above, Dr. Lehn shall cause the Additional Funds to be distributed to the PBHG Funds in accordance with ¶ 7.9, and all costs of such distribution will be borne by PBA. Any distribution of any Additional Funds under the Distribution Plan shall be subject to the provisions of the Distribution Plan.

8.17 <u>Termination of the Final Fair Fund</u>. Within 20 days after the final distribution of uncashed or unclaimed funds, Dr. Lehn will submit to the staff of the Commission a letter from a registered public accounting firm with a reconciliation of the Final Distribution Amount (the “Final Accounting”). The Final Fair Fund (and the Account) shall terminate effective immediately after the Final Accounting is approved by the Commission or its delegate. Within 10 days of the termination of the Final Fair Fund, Dr. Lehn will provide to the staff of the Commission an attestation that the Distribution Plan, as approved, has been implemented.

8.18 <u>Extensions of Deadlines</u>. For good cause shown, the Commission staff may extend any of the dates and/or time limits set forth in the Distribution Plan.

8.19 Material Changes in Plan. Dr. Lehn will inform the Commission of any material changes in the Distribution Plan, and will obtain approval from the Commission prior to their implementation. If material changes are required, the Distribution Plan may be amended upon motion of the IDC, the Fund Administrator, or upon the Commission's own motion.

Submitted on: June 6, 2006 By: ____________________________

**Kenneth Lehn, Ph.D.**
Independent Distribution Consultant
retained in connection with Pilgrim Baxter & Associates, Admin. Proc. No. 3-11524 (June 21, 2004).

## Table 1

### Accounts with more than 4 exchanges into Cash Reserve Fund by fund

*(percent of total is in parentheses)*

| Fund Name | Number of Accounts | | Volume ( Millions of dollars) | |
|---|---|---|---|---|
| Core Growth | 66 | (1%) | 293 | (0%) |
| Emerging Growth | 658 | (11%) | 12,760 | (10%) |
| Focus | 63 | (1%) | 4 | (0%) |
| Global Technology | 37 | (1%) | 1 | (0%) |
| Growth | 927 | (15%) | 74,834 | (59%) |
| International | 57 | (1%) | 19 | (0%) |
| Large Cap | 80 | (1%) | 133 | (0%) |
| Large Cap 20 | 443 | (7%) | 1,239 | (1%) |
| Large Cap Growth | 155 | (3%) | 1,855 | (1%) |
| Limited | 27 | (0%) | 40 | (0%) |
| Mid-Cap | 93 | (2%) | 65 | (0%) |
| New Opportunities | 281 | (5%) | 60 | (0%) |
| Select Growth | 903 | (15%) | 8,015 | (6%) |
| Small-Cap | 95 | (2%) | 434 | (0%) |
| Strategic Small | 51 | (1%) | 73 | (0%) |
| Technology & Comm. | 2,063 | (34%) | 26,645 | (21%) |
| Total | 5,999 | (100%) | 126,470 | (100%) |

## Table 2

## Accounts with more than 4 exchanges into Cash Reserve Fund by quarter

*(percent of total is in parentheses)*

| Year | Quarter | Number of Accounts | | Volume (Millions of Dollars) | |
|---|---|---|---|---|---|
| 1998 | Q2 | 150 | (3%) | 319 | (0%) |
| 1998 | Q3 | 145 | (2%) | 952 | (1%) |
| 1998 | Q4 | 131 | (2%) | 1,247 | (1%) |
| 1999 | Q1 | 162 | (3%) | 2,177 | (2%) |
| 1999 | Q2 | 185 | (3%) | 2,701 | (2%) |
| 1999 | Q3 | 210 | (4%) | 4,209 | (3%) |
| 1999 | Q4 | 211 | (4%) | 3,980 | (3%) |
| 2000 | Q1 | 542 | (9%) | 9,381 | (7%) |
| 2000 | Q2 | 663 | (11%) | 15,560 | (12%) |
| 2000 | Q3 | 654 | (11%) | 16,953 | (13%) |
| 2000 | Q4 | 615 | (10%) | 14,177 | (11%) |
| 2001 | Q1 | 641 | (11%) | 13,298 | (11%) |
| 2001 | Q2 | 712 | (12%) | 17,027 | (13%) |
| 2001 | Q3 | 671 | (11%) | 13,833 | (11%) |
| 2001 | Q4 | 307 | (5%) | 10,655 | (8%) |
| Total | | 5,999 | (100%) | 126,470 | (100%) |

## Table 3
## Regression of Net Equity Purchases on Frequent Traders' Cumulative Cashflow and Other Cashflow

### Panel A: Emerging Growth Fund

Period: 1998 - 1999

| Number of Days | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 |
|---|---|---|---|---|---|---|---|---|---|---|
| Frequent Traders' Flow Beta | -0.043 | -0.036 | 0.013 | 0.008 | 0.008 | 0.009 | 0.006 | -0.005 | 0.010 | 0.013 |
| t-statistic | -1.70 | -1.53 | 0.54 | 0.35 | 0.35 | 0.37 | 0.26 | -0.20 | 0.43 | 0.60 |
| Other Flow Beta | -0.154 | -0.005 | 0.030 | 0.073 | 0.082 | 0.047 | 0.043 | 0.060 | 0.072 | 0.061 |
| t-statistic | -1.84 | -0.07 | 0.49 | 1.33 | 1.62 | 1.02 | 1.02 | 1.50 | 1.92 | 1.71 |

Period: 2000 - 2001

| Number of Days | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 |
|---|---|---|---|---|---|---|---|---|---|---|
| Frequent Traders' Flow Beta | -0.020 | -0.018 | -0.005 | 0.008 | 0.008 | 0.003 | -0.008 | -0.001 | -0.006 | 0.010 |
| t-statistic | -1.08 | -1.15 | -0.33 | 0.55 | 0.54 | 0.23 | -0.55 | -0.08 | -0.45 | 0.74 |
| Other Flow Beta | 0.065 | 0.074 | **0.100** | **0.098** | **0.107** | **0.102** | **0.083** | **0.095** | **0.093** | **0.085** |
| t-statistic | 1.30 | 1.83 | 2.85 | 3.17 | 3.86 | 4.11 | 3.63 | 4.62 | 4.94 | 4.85 |

## Table 3 (cont'd)
## Regression of Net Equity Purchases on Frequent Traders' Cumulative Cashflow and Other Cashflow

### Panel B: Growth Fund

Period: 1998 - 1999

| Number of Days | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 |
|---|---|---|---|---|---|---|---|---|---|---|
| Frequent Traders' Flow Beta | -0.041 | -0.115 | -0.035 | -0.066 | -0.027 | 0.005 | 0.016 | 0.060 | 0.069 | 0.011 |
| t-statistic | -0.71 | -2.31 | -0.67 | -1.28 | -0.50 | 0.09 | 0.30 | 1.15 | 1.36 | 0.22 |
| Other Flow Beta | 0.013 | 0.033 | 0.041 | 0.063 | **0.071** | **0.063** | **0.057** | **0.053** | **0.058** | **0.059** |
| t-statistic | 0.19 | 0.71 | 1.10 | 1.93 | 2.43 | 2.37 | 2.34 | 2.30 | 2.69 | 2.87 |

Period: 2000 - 2001

| Number of Days | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 |
|---|---|---|---|---|---|---|---|---|---|---|
| Frequent Traders' Flow Beta | -0.036 | -0.018 | 0.005 | 0.016 | 0.009 | 0.005 | 0.003 | 0.000 | 0.001 | 0.007 |
| t-statistic | -3.11 | -1.74 | 0.45 | 1.59 | 0.89 | 0.49 | 0.26 | -0.03 | 0.14 | 0.73 |
| Other Flow Beta | **0.375** | **0.359** | **0.322** | **0.258** | **0.231** | **0.211** | **0.188** | **0.163** | **0.153** | **0.138** |
| t-statistic | 2.76 | 3.83 | 4.54 | 4.57 | 4.90 | 5.23 | 5.29 | 5.13 | 5.33 | 5.22 |

## Table 3 (cont'd)
## Regression of Net Equity Purchases on Frequent Traders' Cumulative Cashflow and Other Cashflow

### Panel C: Select Growth Fund

Period: 1998 - 1999

| Number of Days | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 |
|---|---|---|---|---|---|---|---|---|---|---|
| Frequent Traders' Flow Beta | -0.309 | -0.279 | **0.397** | 0.220 | 0.159 | -0.045 | 0.297 | **0.470** | 0.078 | -0.064 |
| t-statistic | -1.32 | -1.46 | 2.25 | 1.21 | 0.88 | -0.24 | 1.75 | 2.77 | 0.45 | -0.36 |
| Other Flow Beta | **1.063** | **1.001** | **0.894** | **0.868** | **0.709** | **0.613** | **0.537** | **0.472** | **0.406** | **0.371** |
| t-statistic | 3.30 | 5.14 | 6.37 | 7.88 | 7.70 | 7.75 | 7.73 | 7.54 | 7.05 | 7.03 |

Period: 2000 - 2001

| Number of Days | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 |
|---|---|---|---|---|---|---|---|---|---|---|
| Frequent Traders' Flow Beta | -0.125 | -0.005 | -0.003 | -0.056 | -0.003 | 0.006 | -0.007 | -0.017 | -0.011 | -0.004 |
| t-statistic | -2.68 | -0.13 | -0.06 | -1.41 | -0.09 | 0.16 | -0.20 | -0.47 | -0.31 | -0.10 |
| Other Flow Beta | **0.589** | **0.674** | **0.639** | **0.579** | **0.534** | **0.459** | **0.412** | **0.346** | **0.310** | **0.292** |
| t-statistic | 4.07 | 6.92 | 8.76 | 9.98 | 11.29 | 11.20 | 11.49 | 10.70 | 10.62 | 10.99 |

## Table 3 (cont'd)
## Regression of Net Equity Purchases on Frequent Traders' Cumulative Cashflow and Other Cashflow

### Panel D: Technology & Communications Fund

Period: 1998 - 1999

| Number of Days | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 |
|---|---|---|---|---|---|---|---|---|---|---|
| Frequent Traders' Flow Beta | -0.053 | -0.006 | 0.044 | 0.042 | -0.038 | -0.080 | 0.014 | -0.042 | -0.016 | -0.026 |
| t-statistic | -1.38 | -0.18 | 1.24 | 1.17 | -1.05 | -2.10 | 0.37 | -1.17 | -0.47 | -0.67 |
| Other Flow Beta | 0.078 | 0.111 | 0.163 | 0.137 | **0.135** | **0.111** | **0.134** | **0.123** | **0.119** | **0.120** |
| t-statistic | 0.43 | 0.98 | 1.86 | 1.86 | 2.11 | 2.00 | 2.70 | 2.73 | 2.88 | 3.15 |

Period: 2000 - 2001

| Number of Days | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 |
|---|---|---|---|---|---|---|---|---|---|---|
| Frequent Traders' Flow Beta | -0.026 | 0.010 | 0.039 | -0.005 | 0.020 | 0.031 | 0.013 | -0.021 | 0.005 | -0.025 |
| t-statistic | -0.87 | 0.40 | 1.51 | -0.20 | 0.81 | 1.29 | 0.53 | -0.83 | 0.21 | -1.05 |
| Other Flow Beta | **2.145** | **1.657** | **1.431** | **1.296** | **1.216** | **1.082** | **0.951** | **0.851** | **0.789** | **0.718** |
| t-statistic | 5.52 | 6.69 | 7.79 | 8.87 | 10.17 | 10.62 | 10.59 | 10.60 | 10.93 | 10.84 |

## Table 4
## Total Excess Short-Term Profits by Frequent Traders
(The first four roundtrips each calendar year are excluded.)

| | 1998 | | | 1999 | | | | 2000 | | | | 2001 | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| FundName | Q2 | Q3 | Q4 | Q1 | Q2 | Q3 | Q4 | Q1 | Q2 | Q3 | Q4 | Q1 | Q2 | Q3 | Q4 | Total |
| Core Growth | 0.0 | 0.0 | 0.4 | 0.4 | 0.4 | 0.3 | 0.1 | 0.1 | -0.1 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 1.7 |
| Emerging Growth | 0.6 | -0.4 | 3.6 | 1.0 | 3.5 | 3.3 | 11.1 | 14.4 | 2.5 | 1.0 | -1.9 | -2.3 | 10.7 | 3.0 | 0.0 | 50.3 |
| Focus | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| Global Technology | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| Growth | 0.5 | -0.7 | 5.8 | 0.4 | 5.0 | 6.8 | 22.1 | 38.4 | 22.0 | 1.0 | -62.4 | -21.9 | 88.9 | 20.7 | 38.5 | 165.2 |
| International | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| Large Cap | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| Large Cap 20 | 0.0 | 0.1 | -0.1 | 0.0 | 0.0 | 0.0 | 1.4 | 2.5 | -0.1 | 0.2 | -0.8 | -1.6 | -0.1 | -0.1 | 0.0 | 1.5 |
| Large Cap Growth | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.1 | 0.0 | 0.0 | 0.0 | -0.2 | 0.0 | -1.1 | 1.9 | 0.6 |
| Limited | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.1 | 0.1 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.2 |
| Mid-Cap | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| New Opportunity | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.1 | 0.0 | -0.1 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | -0.1 |
| Select Growth | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 2.6 | 4.6 | 7.3 | 5.4 | -12.5 | -4.0 | 1.7 | -3.8 | 3.4 | 4.7 |
| Small-Cap | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | -0.1 | 0.1 | 0.3 | 0.0 | 0.3 |
| Strategic Small | 0.0 | 0.0 | 0.0 | 0.0 | 0.1 | 0.1 | 0.0 | 0.0 | 0.0 | 0.0 | -0.1 | 0.0 | 0.0 | 0.0 | 0.0 | 0.2 |
| Technology & Comm. | 0.6 | 0.5 | 2.6 | 2.0 | 5.1 | -2.0 | 30.8 | 18.1 | 9.6 | 7.6 | -44.5 | -20.3 | 6.9 | 1.3 | 0.0 | 18.2 |
| Total | 1.8 | -0.5 | 12.3 | 3.9 | 14.2 | 8.6 | 68.4 | 78.2 | 40.9 | 15.2 | -122.2 | -50.4 | 108.3 | 20.4 | 43.8 | 242.8 |

## Table 5
## Total Excess Short-Term Profits by Frequent Traders In Percentage Terms

(The first four roundtrips each calendar year are excluded.)

| | 1998 | | | 1999 | | | | 2000 | | | | 2001 | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| FundName | Q2 | Q3 | Q4 | Q1 | Q2 | Q3 | Q4 | Q1 | Q2 | Q3 | Q4 | Q1 | Q2 | Q3 | Q4 | Total |
| Core Growth | 0.0% | 0.0% | 0.2% | 0.2% | 0.2% | 0.1% | 0.0% | 0.1% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.7% |
| Emerging Growth | 0.3% | -0.1% | 1.5% | 0.4% | 1.5% | 1.4% | 4.6% | 5.9% | 1.0% | 0.4% | -0.8% | -0.9% | 4.4% | 1.2% | 0.0% | 20.7% |
| Focus | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% |
| Global Technology | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% |
| Growth | 0.2% | -0.3% | 2.4% | 0.2% | 2.1% | 2.8% | 9.1% | 15.8% | 9.1% | 0.4% | -25.7% | -9.0% | 36.6% | 8.5% | 15.9% | 68.1% |
| International | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% |
| Large Cap | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% |
| Large Cap 20 | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.6% | 1.0% | -0.1% | 0.1% | -0.3% | -0.6% | 0.0% | 0.0% | 0.0% | 0.6% |
| Large Cap Growth | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | -0.1% | 0.0% | -0.5% | 0.8% | 0.3% |
| Limited | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.1% |
| Mid-Cap | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% |
| New Opportunity | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | -0.1% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% |
| Select Growth | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 1.1% | 1.9% | 3.0% | 2.2% | -5.2% | -1.7% | 0.7% | -1.6% | 1.4% | 1.9% |
| Small-Cap | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | -0.1% | 0.0% | 0.1% | 0.0% | 0.1% |
| Strategic Small | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.1% |
| Technology & Comm. | 0.3% | 0.2% | 1.1% | 0.8% | 2.1% | -0.8% | 12.7% | 7.4% | 3.9% | 3.1% | -18.3% | -8.4% | 2.8% | 0.6% | 0.0% | 7.5% |
| Total | 0.7% | -0.2% | 5.1% | 1.6% | 5.8% | 3.5% | 28.2% | 32.2% | 16.9% | 6.2% | -50.3% | -20.8% | 44.6% | 8.4% | 18.0% | 100.0% |

**Table 6**

**The Distribution of the Settlement Proceeds Across Funds and Quarters**

(The first four roundtrips each calendar year are excluded.)

| | 1998 | | | 1999 | | | | 2000 | | | | 2001 | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| FundName | Q2 | Q3 | Q4 | Q1 | Q2 | Q3 | Q4 | Q1 | Q2 | Q3 | Q4 | Q1 | Q2 | Q3 | Q4 | Total |
| Core Growth | 0.0 | 0.0 | 0.4 | 0.4 | 0.4 | 0.3 | 0.1 | 0.2 | -0.1 | 0.0 | 0.0 | -0.1 | 0.0 | 0.0 | 0.0 | 1.8 |
| Emerging Growth | 0.7 | -0.4 | 3.7 | 1.1 | 3.6 | 3.4 | 11.4 | 14.8 | 2.6 | 1.0 | -1.9 | -2.4 | 11.1 | 3.1 | 0.0 | 51.7 |
| Focus | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| Global Technology | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| Growth | 0.5 | -0.7 | 5.9 | 0.4 | 5.1 | 7.1 | 22.8 | 39.6 | 22.7 | 1.1 | -64.2 | -22.5 | 91.6 | 21.3 | 39.7 | 170.1 |
| International | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| Large Cap | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| Large Cap 20 | 0.0 | 0.1 | -0.1 | 0.0 | 0.0 | 0.0 | 1.5 | 2.6 | -0.1 | 0.2 | -0.8 | -1.6 | -0.1 | -0.1 | 0.0 | 1.6 |
| Large Cap Growth | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.1 | 0.0 | 0.0 | 0.0 | -0.2 | 0.0 | -1.2 | 2.0 | 0.7 |
| Limited | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.1 | 0.1 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.2 |
| Mid-Cap | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| New Opportunity | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.1 | 0.0 | -0.2 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | -0.1 |
| Select Growth | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 2.7 | 4.7 | 7.5 | 5.5 | -12.9 | -4.1 | 1.8 | -3.9 | 3.5 | 4.8 |
| Small-Cap | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | -0.1 | 0.1 | 0.3 | 0.0 | 0.3 |
| Strategic Small | 0.0 | 0.0 | 0.0 | 0.0 | 0.1 | 0.1 | 0.0 | 0.0 | 0.0 | 0.0 | -0.1 | 0.0 | 0.0 | 0.0 | 0.0 | 0.2 |
| Technology & Comm. | 0.7 | 0.5 | 2.6 | 2.1 | 5.3 | -2.1 | 31.7 | 18.6 | 9.8 | 7.8 | -45.8 | -20.9 | 7.1 | 1.4 | 0.0 | 18.7 |
| Total | 1.8 | -0.5 | 12.7 | 4.0 | 14.6 | 8.8 | 70.4 | 80.6 | 42.1 | 15.6 | -125.8 | -51.9 | 111.5 | 21.0 | 45.1 | 250.0 |