

Via E-mail



Date: July 2, 2007

Nancy M. Morris, Secretary  
Office of the Secretary  
United States Securities and Exchange Commission  
100 F Street, N.E.  
Washington, DC 20549-1090

Re: Admin. Proc. File No. 3-11572

To whom it may concern:

We believe that the Distribution Plan ("Plan") for distribution of the Fair Fund established In the Matter of: Franklin Advisers, Inc. has certain attributes which recognize the efforts required by financial intermediaries that maintain Omnibus Accounts (hereinafter collectively referred to as "Account Carrying Firms") in order to comply with and facilitate the Plan. These attributes include the recognition of the reimbursement of out of pocket costs. However, we believe several aspects of this Plan should be revisited, including; empowering the IDC to approve alternative distribution methodologies, the provision for indemnification of Account Carrying Firms involved in the distribution of the Fair Fund, and the inclusion of provisions for certain protections related to the delivery of "affected" sub-accountholder data by Account Carrying Firms. Certain capitalized terms used but not defined herein have the meanings ascribed to them in the Plan.

Distribution of Fair Fund:

Section V (C) (2) of the Plan provides Account Carrying Firms with two different options for effecting distributions to beneficial owners. Accordingly, the two options allow for the administration of the Fair Fund by enabling such firms to choose between providing data to the Fund Administrator, or internal managing the calculations and distributions to the "affected" sub-accountholders. However, the Plan in its current form does not appear to provide the IDC with the flexibility to review and approve alternative methodologies for effecting distributions. For example, certain Account Carrying Firms may elect to provide limited client data to the IDC for calculation of payments. The Account Carrying Firm can then credit distribution amounts to open sub-accounts pursuant to the Plan and provide last known addresses to the Plan Administrator to help facilitate distributions to accounts that have been closed at Account Carrying Firms. Failure to provide additional flexibility to Account Carrying Firms when making distributions to beneficial owners may eliminate the ability of the Account Carrying Firms to select a solution that will be cost effective, expeditious and will best service the shareholders of the Fund.

Additionally, Section V (B) (2), Intermediary-Held Individual Accounts, and Section V (C) 2, Other Omnibus Accounts, provides that if the total Adjusted Account-Level

Allocation is between \$10.00, the de minimis set by the plan, and \$1,000.00, the distribution amount will be paid directly to the Broker Dealer or Account Carrying Firm, with a letter directing them to use such Fair Fund distribution in a manner that is consistent with its legal, fiduciary, and contractual duties, as applicable. We feel that the plan should either set an additional de minimis amount of \$1,000 for Omnibus accounts, similar to other Fund Family Distributions Plans, or require the same process of identification and distribution of payments to the “affected” sub-account holder for all distribution amounts above the established \$10.00 de minimis. Furthermore, we feel that the only manner that is consistent with the Fair Fund Distribution is the methodology provided by the IDC. Account Carrying Firms do not possess the capabilities to perform the data analysis required, nor would it be commercially reasonable for them to develop or purchase such services.

Indemnity:

Section V (L) provides a limitation of liability for the IDC and the Fund Administrator except in the case of gross negligence, bad faith or willful misconduct, reckless disregard of duty, or reckless failure to comply with the terms of the Plan. It would appear, therefore, that the current state of law is such that it has not been applied to facts similar to the current situation to reach the issue of the standard of care that would apply to Account Carrying Firms. Accordingly, we believe that the Securities and Exchange Commission (the “Commission”) should require, pursuant to Rule 1101(b)(6) [17 CFR 201.1101(b)(6)] of the Commission’s Rules of Practice and Investigations, that the Plan include procedures for the indemnification of the Account Carrying Firms by the Respondent except in the case of an Account Carrying Firm’s gross negligence, bad faith or willful misconduct, reckless disregard of duty, or reckless failure to comply with the terms of the Plan. We believe this would be permissible under Rule 1101(b)(6) because the Account Carrying Firms choosing the second option contained in Section V (C) (2) take on the responsibility of the Administrator and Rule 1101(b)(6) applies to procedures for the administration of Fair Funds. As among the Respondent, Fund Administrator, bank service provider, data analysis company, IDC, the Commission and Account Carrying Firms (among others), we believe it to be necessary, given the state of the law, and appropriate in the public interest for the Respondent to be financially responsible for any additional costs or damages associated with claims in regard to the distribution of the Fair Fund should beneficial owners take action against Account Carrying Firms.

Data Privacy:

The Plan may require Account Carrying Firms to transmit a substantial amount of client sensitive information, including name, address and social security number, to non-affiliated entities whose data control procedures may not be comprehensive. The safeguarding of client data is mandated by Federal law and regulation, and many state laws govern financial institutions’ handling of such client data. The transmission of client data exposes Account Carrying Firms to significant regulatory and reputational risks if such data is disclosed or distributed in an unauthorized manner or otherwise mishandled. We respectfully request that the Plan be revised to provide for security and confidentiality obligations and indemnification of all Account Carrying Firms for any misuse or loss of client data which may occur as a result of the delivery of this data.

The Commission has pointed out with respect to other proposed plans of distribution that those plans require the client data to be maintained confidentially by the Fund Administrator. It has come to our attention that Fund Administrators intend to transmit client data to numerous other service providers engaged by them, including data analysis firms, print-mail vendors and others, pursuant to written agreements with standard commercial terms, including confidentiality and indemnity provisions. Accordingly, it would seem only prudent for the Plan to specifically require the Fund Administrator to extract confidentiality obligations from their service providers. Moreover, given the fact that Fund Administrators, in some cases the Respondents themselves (as here) and in other cases paid by the Respondents but not obligated to the Respondent or an agent of the Respondent, have no obligation or commercial incentive to provide any indemnity to Account Carrying Firms and because of the state of the law enjoy limited liability as specifically recognized by the Commission in the Plan, we believe the Commission should require the Plan to contain procedures requiring that Fund Administrators provide indemnities to Account Carrying Firms in applicable written agreements related to the provision of client data with the same standard of care referred to above. Again, we believe that the Commission's Rule 1101(b)(6) would allow for an indemnity to be included in the Plan.

The Commission has also pointed out that Account Carrying Firms could choose not to provide any client data and thereby avoid any release of client data that could subject them to liability. It is respectfully submitted, however, that because Account Carrying Firms do not possess the capabilities to perform the data analysis required, nor would it be commercially reasonable for them to develop or purchase such services, availing themselves of this alternative is not reasonable, notwithstanding the option contained in the Plan.

Very truly yours,

William Bridy  
Managing Director  
Merrill Lynch & Co., Inc.