

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

**ADMINISTRATIVE PROCEEDING**  
**FILE NO. 3-12115**

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<b>In the Matter of</b>	:	
<b>American Express</b>	:	<b>CORRECTED PROPOSED FAIR FUND</b>
<b>Financial Advisors Inc.</b>	:	<b>DISTRIBUTION PLAN</b>
<b>(now known as Ameriprise</b>	:	
<b>Financial Services, Inc.),</b>	:	
	:	
<b>Respondent.</b>	:	

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Now comes Respondent American Express Financial Advisors Inc., now known as Ameriprise Financial Services, Inc. (“Ameriprise”) and pursuant to 17 C.F.R. 201.1100, et seq., herewith submits to the Securities and Exchange Commission (“Commission” or “SEC”) and its Independent Distribution Consultant (“IDC”), Ameriprise’s FAIR Fund Distribution Plan.

**OVERVIEW**

This matter concerns the distribution of \$30 million paid by Ameriprise pursuant to a December 1, 2005 order entered against it by the Commission, by consent and without admitting or denying the facts alleged in the order, concerning Ameriprise’s practices related to the receipt and disclosure of revenue sharing payments received in connection with sales of mutual fund shares and interests in 529 college savings plans (“529”) by certain mutual fund families designated by Ameriprise as preferred. Ameriprise has submitted a plan to distribute the \$30 million, which is set forth below (“Distribution Plan”). The Distribution Plan is subject to the notice and comment

procedure set forth in paragraph 19, and review and approval by the Commission and an Independent Distribution Consultant (“IDC”) appointed pursuant to the Commission’s December 1, 2005 order.

## **FACTUAL AND PROCEDURAL BACKGROUND**

1. Ameriprise is a Delaware Corporation that has been registered with the Commission as a broker-dealer pursuant to Section 15 of the Exchange Act since 1971. It is also a member of the National Association of Securities Dealers (“NASD”). Ameriprise’s headquarters is located in Minneapolis, Minnesota. Ameriprise has more than 10,000 registered representatives whom it calls “financial advisors” and more than 3,750 branch offices across the United States.

2. Ameriprise consented to the entry of an Order Instituting Administrative and Cease-and-Desist Proceedings (“Order”),<sup>1</sup> without admitting or denying the findings therein. According to the Order, the Commission found that between January 2001 and August 2004, Ameriprise did not adequately disclose material information concerning its conflicts of interest in offering and selling shares of twenty-seven preferred mutual fund families whose affiliates made revenue sharing payments to Ameriprise in exchange for, among other things, inclusion on Ameriprise’s brokerage platform. From October 2003 to December 2005, Ameriprise also failed to adequately disclose certain material facts about its conflicts of interest in the offer and sale of interests in nine 529 plans concerning revenue sharing payments made to Ameriprise by affiliates of the nine fund families that administered the 529 plans.

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<sup>1</sup> *Order Instituting Administrative and Cease-and-Desist Proceedings, Making Findings, and Imposing Remedial Sanctions and a Cease-and-Desist Order Pursuant to Section 8A of the Securities Act of 1933, and Sections 15(b) and 21C of the Securities Exchange Act of 1934*, Securities Act Release No. 8637 dated December 1, 2005.

3. The Order requires, among other things, the appointment of an IDC to verify and report on the payment by Ameriprise of \$30 million into a FAIR Fund established pursuant to Section 308a of the Sarbanes-Oxley Act. The FAIR Fund is to be distributed for the benefit of Ameriprise's customers who purchased shares in Preferred Provider and Select Group program family funds from January 1, 2001 through August 31, 2004. This FAIR Fund will be administered by the IDC as described more fully below.

4. Ameriprise proposed, and the Commission did not object to, the appointment of Mr. Nelson S. Kibler as the IDC (Mr. Kibler is herein referred to as the "IDC"). Mr. Kibler is both a Certified Public Accountant and an Attorney with extensive experience in advising on securities regulation issues. He is a retired partner of Deloitte & Touche and has previously held several positions at the SEC. It also is proposed that Mr. Kibler act as the Fund Administrator of the Fair Fund. Ameriprise has agreed to pay all costs associated with the engagement of the IDC, the administration of the FAIR Fund Distribution Plan and the distribution of the FAIR Fund.

5. Ameriprise paid to the Commission the \$30 million called for under the Order. The FAIR Fund is currently deposited at the U.S. Treasury Bureau of Public Debt ("Treasury") for investment in government obligations. Other than interest from these investments, it is not anticipated that the FAIR Fund will receive additional funds.

#### **DISTRIBUTION PLAN AND PROCEDURES**

6. There are a number of features and considerations to this FAIR Fund that influenced the development of the Distribution Plan, including the following:

(a) there is an overriding goal of distributing as much of the FAIR Fund as possible to customers on a basis that all customers can participate on an equal basis

subject only to the factors set forth in this Distribution Plan. With that in mind, the Distribution Plan does not impose upon customers the need and burden to go through a claim process. Rather, due diligence has shown that Ameriprise reasonably believes that it can identify customers qualifying for a payment.

(b) The majority of the customers who are entitled to a distribution from the FAIR Fund are current and active customers of Ameriprise. This creates the opportunity to make the distribution through the already existing electronic system for crediting active customer accounts which in turn greatly reduces the transactional issues of relying upon mail service to make the distribution. Under the supervision of the IDC, the distributed funds will be deposited into the current customers' brokerage accounts at Ameriprise. Ameriprise will not receive any fees for managing these funds prior to customer direction regarding the investment of the funds. For former or inactive customers, Ameriprise will issue checks and will utilize the mail and returned mail procedures that are set forth in paragraph 12.

(c) The distribution methodology treats the "benefit" at issue in the Order, as the benefit Ameriprise received from its customers purchasing Preferred Provider and Select Group family fund shares from January 1, 2001 through August 31, 2004 ("the Relevant Period").

(d) This FAIR Fund is not being distributed according to a claims-made process, so the procedures for providing notice and for making and approving such claims are not applicable.

(e) Because a customer can have multiple accounts and because the owners of record for each of the accounts can be different (such as, joint accounts, qualified

accounts, trust accounts, etc.), Ameriprise, under the supervision of the IDC, will ensure that settlement distributions are addressed to the correct account owners. The calculations associated with this effort are described starting at paragraph 8 below.

7. The terms used herein are defined as follow:

(a) a “Purchase” means an acquisition or exchange of shares outside of a dividend investment program. For the purchase to qualify, it must also have occurred where Ameriprise was the broker/dealer, and therefore Fund Family shares acquired elsewhere and transferred into Ameriprise do not qualify as “purchased.”

(b) An “Eligible Customer” is one who purchased mutual fund shares or 529’s during the Relevant Period from a Preferred Provider and/or Select Group fund family, as identified in the Order. A person or entity shall not be an Eligible Customer if such person or entity is: (i) a customer that was banned due to market timing; (ii) any person who was an officer of Ameriprise between January 1, 2001 and December 1, 2005; (iii) a wholly owned affiliate of Ameriprise in which customers have no beneficial interest; or (iv) has been identified by the Commission as having submitted fabricated claims in other Commission matters on a list to be submitted by the Commission to Ameriprise upon approval of this Distribution Plan.

(c) An “Eligible Account” is an account that is owned by the Eligible Customer. One customer can have multiple accounts.

(d) “Revenue Share Fund” is defined as a Preferred Provider or Select Group family fund where the fund family paid revenue sharing to Ameriprise during the Relevant Period. The following fund families participated in the Preferred Provider and/or Select Group programs:

Revenue Sharing Fund Families		
• AIM FAMILY OF FUNDS	• DAVIS FUNDS	• NUVEEN MUTUAL FUNDS
• ALLIANCEBERNSTEIN INV	• DREYFUS PREMIER FUNDS	• OPPENHEIMER FUNDS
• AMERICAN CENTURY INVEST	• DREYFUS FOUNDERS	• OPPENHEIMER FUNDS 529
• AMERICAN CENTURY 529	• DREYFUS GROUP	• OPPENHEIMER LEGACY FUNDS
• CALVERT GROUP	• EATON VANCE GROUP	• PHOENIX FUNDS
• STEIN ROE	• EVERGREEN FUNDS	• PIMCO FUNDS
• NEWPORT PACIFIC	• FEDERATED FUNDS	• PIONEER FUNDS
• CRABBE HUSON	• FIDELITY	• PUTNAM FUNDS
• COLONIAL	• FIDELITY ADVISOR FUNDS	• SALOMON BROTHERS GROUP
• LIBERTY COLONIAL	• FRANKLIN GROUP OF FUNDS	• SELECTED FUNDS
• LIBERTY FUNDS GROUP	• GOLDMAN SACHS ASSET MGMT	• STRONG FUNDS
• GALAXY FUNDS	• INVESCO	• VAN KAMPEN FUNDS
• COLUMBIA FUNDS GROUP	• JANUS	• WELLS FARGO ADVANTAGE
• COLUMBIA FUNDS 529	• JANUS ADVISER FUNDS	• WELLS FARGO FUNDS
• CREDIT SUISSE ASSET MGMT	• MFS FAMILY OF FUNDS	

(e) “Order” means the Order entered on December 1, 2005.

(f) “FAIR Fund” means the \$30 million FAIR Fund principal paid by Ameriprise pursuant to the Order plus any accrued interest.

(g) “Retirement Accounts” are accounts (other than salary reduction-only 403(b) accounts) of any omnibus “employee benefit plan,” as defined in Section 3(3) of ERISA, which is not (1) an Individual Retirement Account, including a traditional IRA, a Roth IRA, a SEP IRA, a SARSEP IRA, or a SIMPLE IRA, or (2) a Section 403(b)(7) custodial account under a program not established or maintained by an employer, whether or not the employee benefit plan is subject to Title 1 of ERISA.

(h) “Active” customer account means a current customer of Ameriprise who has assets currently in an eligible account. An “inactive” customer account is an account that (i) does not currently have assets in an eligible account, or (ii) holds shares at a fund family associated with a Revenue Share Fund and not at Ameriprise.

(i) "Purchase Dollars" are the total Purchases for an Eligible Customer.

(j) "Total Purchase Dollars" is the sum of all Purchase Dollars.

(k) "Minimum Payment Equivalent" is the number of Purchase Dollars required to achieve the Minimum Distribution Amount.

(l) "Minimum Distribution Amount" is \$25.00, the smallest amount any Eligible Customer will receive.

(m) "Minimum Payment Pool" holds the first \$25 for all Eligible Customers. All Eligible Customers have at least \$25 in the Minimum Payment Pool, even if their Purchase Dollars are less than or equal to the Minimum Payment Equivalent.

(n) "Minimum Payment Fund" will be the total of all allocations in the Minimum Payment Pool.

(o) "Purchase Dollar Pool" holds Purchase Dollars that are not used in the Minimum Payment Pool.

(p) "Purchase Dollar Pool Total" will be the total of all Purchase Dollars in the Purchase Dollar Pool.

(q) "Purchase Dollar Fund" will be the total settlement dollars used to calculate allocations from the Purchase Dollar Pool.

#### 8. Method of Calculation for Each Eligible Customer's Share of the FAIR Fund.

(a) The calculations described herein will be based on Ameriprise's records and calculated by Ameriprise in accordance with the procedures outlined in this Distribution Plan. The IDC will review and approve the calculations. In doing so, and in performing other tasks required of the IDC under this Plan, the IDC shall have the full cooperation and assistance of Ameriprise personnel, including Ameriprise's corporate audit function.

The IDC will develop, with the cooperation of Ameriprise personnel, agreed-upon review procedures and tests to assure compliance with the obligations of this Plan. Such agreed-upon review procedures and tests may be implemented by Ameriprise personnel under the supervision of the IDC. The IDC will conduct an independent review and appropriate tests of any review and test procedures undertaken by Ameriprise personnel. Any agreed-upon procedures shall be at the sole discretion of the IDC. The methods of calculation of each Eligible Customer's share of the FAIR Fund are intended by the Commission to result in a payment to each Eligible Customer that restores the impaired value of the Eligible Customer's investment in a Revenue Share Fund. Some of this impaired value is subject to calculation, while some of this impaired value is not. The methods of calculation are intended to fairly estimate the impaired value that each Eligible Customer has suffered and make a payment to such customer in that amount.

(b) The calculations in this section will show how to:

- (i) Calculate the total amount a customer will receive; and
- (ii) Calculate how the customer's allocation will be made amongst the customer's various accounts.

(c) The first step needed for determining each customer's allocation is to determine the size of the Minimum Payment Equivalent. The formula is: Minimum Payment Equivalent equals Minimum Distribution Amount divided by (FAIR Fund amount divided by Total Purchase Dollars). For example, if the FAIR Fund amount is \$30,000,000 and the Total Purchase Dollars are \$6,000,000,000 then the Minimum Payment Equivalent is \$25 divided by .005 (\$30,000,000 divided by \$6,000,000,000), which equals \$5000.



(d) The second step is to determine if a customer will receive less than the Minimum Distribution Amount. This is done by comparing the Minimum Payment Equivalent to each customer's Purchase Dollars. If the customer's Purchase Dollars is less than or equal to the Minimum Payment Equivalent, the customer will be grossed-up to the Minimum Distribution Amount and assigned to the Minimum Payment Pool. For example, if Customer X had \$3000 in Purchase Dollars and the Minimum Payment Equivalent equals \$5000, and since \$3000 is less than \$5000, then the customer will be allocated \$25.00 in the Minimum Payment Pool.

(e) The third step is to determine if a customer will receive more than the Minimum Distribution Amount. This is done by comparing the Minimum Payment Equivalent to each customer's Purchase Dollars. If the customer's Purchase Dollars is greater than the Minimum Payment Equivalent, an amount equal to Purchase dollars minus the Minimum Payment Equivalent will be allocated to the Purchase Dollar Pool. Additionally, since the Minimum Payment Equivalent was subtracted from the customer's Purchase Dollar Pool allocation, \$25 will be allocated to the Minimum Payment Pool for this customer. For example, if Customer X had \$15,000 in Purchase Dollars and the Minimum Payment Equivalent equals \$5000, then the customer will have \$10,000 added to the Purchase Dollar Pool and \$25 allocated to the Minimum Payment Pool.

(f) The fourth step will be to calculate the Minimum Payment Fund size. This is done by totaling all allocations from the Minimum Payment Pool.

(g) The fifth step will be to calculate the Purchase Dollar Pool Total. This is done by totaling all Purchase Dollars in the Purchase Dollar Pool.

(h) The sixth step is to calculate the Purchase Dollar Fund size. This is done by subtracting the Minimum Payment Fund from the FAIR Fund amount. For example, if the Minimum Payment Fund equals \$10,000,000, then the Purchase Dollar Fund contains \$20,000,000 (\$30,000,000 minus \$10,000,000 equals \$20,000,000).

(i) The seventh step is to calculate the allocation for customers in the Purchase Dollar Pool. This is a pro-rata formula based on the percentage of dollars each customer has to the Purchase Dollar Pool Total. This formula is as follows: allocation equals purchase dollar pool dollars divided by Purchase Dollar Pool Total times Purchase Dollar Fund. For example, if Customer Y has \$10,000 in the Purchase Dollar Pool, Purchase Dollar Pool Total is \$4,000,000,000, and Purchase Dollar Fund is \$20,000,000 then the Purchase Dollar Pool allocation for Customer Y equals 10,000 divided by \$4,000,000,000 times \$20,000,000 equals \$50.00.

(j) The customer's allocation is the total of their allocation in the Minimum Payment Pool and the allocation calculated in step (i), if any.

(k) The allocation as stated in (j) is then allocated to the customer's accounts. This allocation is a pro-rata allocation based on the purchase dollars in each of the customer's accounts to the customer's Purchase Dollars. For example, if Customer Y has three (3) accounts that total \$10,000 in Purchase Dollars and their allocation is \$50:

Account 1 with \$3000 in Purchases will be allocated \$15.00 (\$3,000 divided by \$10,000 multiplied by \$50)

Account 2 with \$3000 in Purchases will be allocated \$15.00

Account 3 with \$4000 in Purchases will be allocated \$20.00

9. The Method of Distribution To Each Eligible Customer of Their Share of the FAIR Fund.

(a) If an Eligible Customer has a current and active account with Ameriprise, that Eligible Customer shall generally, via electronic transfer, receive a credit to their account. For any Eligible Customer who does not receive an electronic credit, then Ameriprise shall send payment to such customer.

(b) If an Eligible Customer no longer has an account with Ameriprise or the account is inactive, then Ameriprise shall send the payment and a disclosure statement to the Eligible Customer's last known address as determined using the procedures described in paragraph 12, *infra*.

(c) All payments shall be preceded or accompanied by a communication that includes, as appropriate: (a) a statement characterizing 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. Any such information letter or other mailing to recipients characterizing their distributions shall be submitted to the assigned Commission staff for review and approval. Distribution checks and account credits, on their face or in the accompanying mailing, will clearly indicate that the money is being distributed from a FAIR Fund established by the SEC.

10. Retirement Accounts.

Retirement Accounts are held in trust by a trustee, and the trust is the legal owner of the shares. Under this Distribution Plan, plan fiduciaries and intermediaries (as those terms are discussed in the Field Assistance Bulletin No. 2006-01) require that Retirement

Accounts distribute the monies received in accordance with their legal, fiduciary, and contractual obligations and consistent with guidance issued by the Department of Labor, including but not limited to, Department of Labor Field Assistance Bulletin No. 2006-01, April 19, 2006.

An intermediary to one or more Retirement Accounts may allocate the distribution it receives pursuant to the Distribution Plan to or among eligible Retirement Accounts participating in an omnibus account administered by such intermediary according to the procedures set forth in paragraph 8 above or according to the average share or dollar balances of the Retirement Account during the Relevant Period, provided, however, that for the purposes of such allocation each Retirement Account itself (and not the individual plan participant) shall be treated as beneficial owner.

The fiduciary of a Retirement Account receiving such a distribution should distribute it pursuant to one of the following alternatives (which are not necessarily the only methods available for plan fiduciaries to follow in allocating amounts received by or on behalf of Retirement Accounts pursuant to this Distribution Plan):

(a) Plan fiduciaries may allocate the distribution amount *pro rata* (based on total account balance) among the account of all persons who are currently participants in the Retirement Plan (whether or not they are currently employees).

(b) Plan fiduciaries may allocate the distribution amount *per capita* among the accounts of all persons who are currently participants in the Retirement Account (whether or not they are currently employees).

(c) To the extent that none of these preceding alternatives is administratively feasible, plan fiduciaries may, to the extent permitted by the Retirement Account, use the distribution amount to pay the reasonable expenses of administering the plan.

#### 11. De Minimus Amounts.

A De Minimus procedure and calculation will not be needed to calculate a customer's total payment because Ameriprise will be sending a minimum distribution of \$25 to all Eligible Customers. However, as set forth in paragraph 8 above, because distributions to Eligible Customers with multiple accounts are split among those accounts, Eligible Customers with multiple accounts would receive several checks or distributions in amounts smaller than \$25. For Eligible Customers with multiple accounts Ameriprise can not aggregate amounts due to each account.

#### 12. Mail and Returned Mail Procedures.

(a) The overall goal for the distribution process is to minimize the amount of funds that are not distributed to customers eligible for a distribution. Priority will be given to electronic distribution of monies to an existing, active Ameriprise account. Next, for those customers holding their shares at a fund family associated with a Revenue Share Fund, and not at Ameriprise, such customers shall receive a physical check based on the Ameriprise name and address system. For the remaining population, a physical check will be mailed to the last known address of the customer after checking for a more recent address using LexisNexis or a comparable service. All physical checks shall bear a stale date of ninety (90) days from the date of issue. Checks that are not negotiated within the stale date shall be voided and U.S. Bank shall be instructed to not issue payment on

those checks. Electronic credits will be made only to cash equivalent accounts (e.g. money market accounts).

(b) If any physical checks are returned as “undeliverable,” a database search will be conducted for those customers through First Data Company’s “Fast Data” service or a comparable service such as LexisNexis within fourteen (14) business days after receipt of each returned check and new physical checks shall be re-mailed to the additional addresses obtained. If any new physical check is not cashed by the stale date, that check shall be void and the issuing financial institution shall be instructed to delete the checks from the register.

(c) If after ninety (90) days after the initial date funds from the FAIR Fund are first distributed (“date of distribution”), any funds remain in the FAIR Fund, Ameriprise and/or the IDC shall make reasonable efforts to contact any Eligible Customers who have failed to cash any checks over \$50 (other than physical checks returned as “undelivered”) and take appropriate action to reissue any such checks as needed. If, after 180 days after the date of distribution, any checks remain uncashed (other than physical checks returned as “undelivered”), Ameriprise shall distribute the remaining funds as set forth in paragraph 15.

### 13. Dispute Procedure.

The dispute procedure under 17 C.F.R. 201.1101 (b)(4) shall generally follow the Ameriprise current customer complaint process. Accordingly, all disputes, in order to be acted upon, must be submitted in writing, with all supporting documentation for the dispute, to Amy Lake, Rust Consulting, Inc., 201 South Lyndale Avenue, Faribault, MN 55021. Ms. Lake or her staff, will investigate any dispute and issue a preliminary

recommendation as to the resolution of the dispute. The preliminary recommendation and supporting documentation will be forwarded to the IDC for review and final disposition. A record shall be maintained of all such disputes and the resolution thereof. The determination by the IDC shall be final as to the dispute. The disclosure statement accompanying the distributions shall identify a person Eligible Customers may contact in the event of any questions. All disputes shall be submitted within thirty (30) days of the payment to Eligible Customers provided for in paragraph 9 of this Distribution Plan. A preliminary recommendation for resolving the dispute shall be made within thirty (30) days of receipt of the dispute. Final resolution of the dispute shall be made within thirty (30) days thereafter. Any disputes determined meritorious by the IDC shall first be paid from a \$100,000 reserve set aside from the FAIR Fund for such purpose. Any amounts left over in that reserve not used to pay disputes shall be remitted by the Commission to the Treasury or to such other person or entity as the Commission may direct.

#### 14. Support Services.

Ameriprise will provide customer support and communications programs which will become active at least by the time the first distribution occurs. These services will include a toll free number and a website to the public. The Commission retains the right to review and approve any material posted on the website.

#### 15. Fund Expiration.

The distribution date will be no later than one hundred and eighty (180) days from final approval of the Plan by the Commission. Upon distribution, the IDC shall make arrangements for the final payment of taxes and shall submit a final accounting to the Commission. Prior to termination of the FAIR Fund, Ameriprise shall cooperate with the

Tax Administrator to make adequate reserves for tax liability and for costs of tax compliance. All undistributed assets remaining in the FAIR Fund minus any reserves for disputes, tax liability and tax compliance costs, shall be remitted by the Commission to the Treasury or to such other person or entity as the Commission may direct. The FAIR Fund shall be eligible for termination after all of the following have occurred: (1) the final accounting by the IDC has been submitted and approved by the Commission; (2) all taxes have been paid; (3) all remaining funds or any residual have been transferred to the U.S. Treasury. The Commission's staff shall seek an order from the Commission to: (1) approve the final accounting; (2) approve sending the remaining residual amount to the United States Treasury after the final tax payment has been made; and (3) authorize the Secretary of the Commission, after receiving notice from the staff that all funds have been expended, to discharge the IDC.

#### 16. Fund Administration.

(a) Ameriprise has obtained fidelity bonds in the amount of \$100 million. The primary insurer, Lloyds of London, is a company which, as of its most recent renewal, was rated A XV by A.M. Best. The fidelity bonds' total coverage is in the amount of \$100,000,000 per occurrence and \$100,000,000 aggregate, and provide 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. Ameriprise will maintain the bond until termination of the Fund. Ameriprise is currently, and will continue to be until termination of the Fund, self insured to cover losses in an amount in excess of the



value of the FAIR Fund against any errors and omissions committed by employees of Ameriprise in the course of their performance of professional services. Under the Plan, at no time will there be funds under the custody and control of Ameriprise that exceed the amount covered by the bond. These policies have been provided to the Commission's staff for review and have been deemed "not unacceptable." At the appropriate time, the FAIR Fund will be transferred from the Treasury directly to an account at a bank which carries liability insurance in excess of the amount of the FAIR Fund, as more fully described in paragraph 17.

(b) The Commission has appointed Damasco & Associates as the Tax Administrator of the FAIR Fund ("Tax Administrator").<sup>2</sup> The IDC and Ameriprise shall 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 Ameriprise.

(c) For non-IRA retirement accounts, other than salary reduction-only 403(b) accounts ("NRAs"):

(i) upon completion of the final calculation of the amount to be distributed to each eligible accountholder and associated validations, the IDC will use best efforts to identify and mail notice to each NRA accountholder entitled to a distribution of \$1,000 or more of its distribution amount. Such notice will be sent via the United States Postal Service to the eligible accountholder's last known address of record;

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<sup>2</sup> *Order Directing Appointment of Tax Administrator*, Securities Act Release No. 8638 dated December 1, 2005.

(ii) The record holder shall distribute the funds in accordance with its fiduciary, contractual, and/or legal obligations, and consistent with guidance issued by the Department of Labor, if any. Subject to the foregoing: a service provider (other than a plan sponsor) may allocate the proceeds it receives pursuant to the Plan among the non-IRA retirement plans (“NRPs”) according to average share or dollar balance of the NRPs’ investments in the Preferred Provider or Select Group Funds during the relevant period; and proceeds attributable to a particular NRP may (1) be allocated to current participants pro rata based upon their current total balance in the affected NRP, or (2) to the extent permitted by the NRP, be used to pay reasonable expenses of administering the NRP.

(d) In order to distribute funds, the IDC will submit a validated list of payees and the payment amounts to the assigned Commission staff, who will obtain authorization from the Commission to disburse pursuant to Rule 1101(b)(6). The payees and amounts will be validated at the IDC’s direction by Rust Consulting, Inc. The validation will state that the list was compiled in accordance with the Plan and provides all information necessary to make disbursement to each distributee. Unless otherwise directed by the Commission, the Commission staff will obtain an Order Directing Disbursement from the Secretary of the Commission that releases funds to the bank account established by the IDC based upon the validated list and representation by the IDC that the checks/wires will be issued consistent with the requirements in paragraph 17. Once the FAIR Fund has been transferred to the bank, the IDC will file an accounting during the first ten days of each calendar quarter. A final accounting and report of the implementation of the

Distribution Plan will be prepared by the IDC and shall be submitted to the Commission for approval prior to termination of the FAIR Fund and discharge of the IDC.

17. FAIR Fund Depository.

The FAIR Fund constitutes a Qualified Settlement Fund (“QSF”) under Section 468B(g) of the Internal Revenue Code, 28 U.S.C. § 468B(g), and related regulations, 26 C.F.R. §§ 1.468B-1 through 1.468B-5.

The assets of the FAIR Fund are subject to the continuing jurisdiction and control of the Commission. Upon approval of the Plan, the IDC shall establish an account at U.S. Bank, in the name of and bearing the Tax Identification Number of the QSF. U.S. Bank has \$150 million fidelity bond coverage provided by an insurance company Rated A+ by A.M. Best. U.S. Bank maintains a Financial Institutions (FI) Bond including errors and omissions coverage with an aggregate limit of \$150 million. The primary insurer is rated A+ by A.M. Best. U.S. Bank annually assesses the adequacy of its policy limits through extensive analysis of historical loss data, exposure to loss and internal company controls. U.S. Bank’s bond limits are reviewed annually by its Board of Directors.

Following approval of the Plan, and submission by the IDC of a list of payees and amounts and all information necessary to make disbursement to each distributee to the Commission staff, and unless otherwise directed by the Commission, the Commission staff will obtain an Order Directing Disbursement from the Secretary of the Commission that releases the balance in the FAIR Fund to be deposited in the account established by the IDC in the name of and bearing the Taxpayer Identification Number of the Qualified Settlement Fund (“QSF account”). The IDC shall be the signer on the QSF account,

subject to the continuing jurisdiction and control of the Commission. The IDC shall authorize U.S. Bank to provide account information to the Tax Administrator. The IDC shall use the assets and earnings of the FAIR Fund to provide payments to Eligible Customers and to provide the Tax Administrator with assets to pay tax liabilities and tax compliance fees and costs. The QSF account shall be invested, at the direction of the IDC, in short-term U.S. Treasury securities all backed by the full faith and credit of the U.S. Government of a type and term necessary to meet the cash requirements of the payments to Eligible Customers, tax obligations and fees; provided however, that investments in the U.S. Treasury securities will not be made through repurchase agreements or other derivative products.

All electronic distributions from the U.S. Bank QSF account to Eligible Customers shall be made no more than ten (10) business days after the funds are transferred into the U.S. Bank QSF account.

All mail distributions from the U.S. Bank QSF account to Eligible Customers shall be made no more than twenty (20) business days after the funds are transferred into the U.S. Bank QSF account. The U.S. Bank QSF account shall be utilized solely and exclusively for the distribution of the FAIR Fund pursuant to the Distribution Plan. At no time shall any portion of the assets of the FAIR Fund be in the custody or control of Ameriprise except to pass through a general clearing account to disburse to Eligible Customers. Duplicate statements for the U.S. Bank QSF account shall be provided directly to the IDC, Ameriprise, and the Tax Administrator. The distribution calculations and amounts set forth in paragraphs 8, 9 and 11, above, shall be based on the distributable amount of the FAIR Fund after accounting for the reserves set forth in paragraphs 13 and

15 above as calculated by the Tax Administrator as of a day certain selected for the commencement of the calculations for the distributions not to exceed one hundred and twenty (120) days preceding the date of distribution. Any interest earned after the date certain for distribution shall be remitted by the Commission to the Treasury or to such other person or entity as the Commission may direct. The Commission has appointed Damasco and Associates to file tax returns as appropriate on behalf of the FAIR Fund as provided under 17 C.F.R. 1101(b)(6).

18. Amendment.

The IDC will inform the Commission staff of any material changes in the Plan, and will obtain approval from the Commission prior to their implementation. If material changes are required, this Plan may be amended upon the motion of the Respondent, the IDC or upon the Commission's own motion.

19. Notice of Proposed FAIR Fund Distribution Plan.

In accordance with 17 C.F.R. 201.1101(b)(3), notice of this Plan shall be published in the SEC Docket, on the Commission website [<http://www.sec.gov>], and on the Ameriprise website [<http://www.ameriprise.com>]. Any person or entity wishing to comment on the Plan must do so in writing by submitting their comments within thirty (30) days of the date of the notice by: (i) sending a letter to the Office of the Secretary, United States Securities and Exchange Commission, 100 F Street, N.E., Washington, DC 20549-1090; (ii) using the Commission's Internet comment form ([www.sec.gov/litigation/admin.shtml](http://www.sec.gov/litigation/admin.shtml)); or (iii) sending an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Comments submitted by e-mail or via the Commission's website should include the Administrative Proceeding File Number (Admin. Proc. File No. 3-

12115) in the subject line. Comments received will be available to the public.

Commenters should only submit information that they wish to make publicly available.

Submitted on: February 1, 2008

By: \_\_\_\_\_  
Sarah McKenzie  
Senior Vice President -  
Brokerage and Managed Products  
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