

UNITED STATES OF AMERICA  
Before the  
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING  
File No. 3-12432

In the Matter of

BISYS Fund Services, Inc.,

Respondent

PROPOSED PLAN OF DISTRIBUTION

Respondent BISYS Fund Services, Inc. ("BISYS"), now known as Citi Fund Services, Inc., in consultation with the Independent Distribution Consultant ("IDC"), submits this Proposed Plan of Distribution (the "Plan") to the Securities and Exchange Commission ("Commission") for review pursuant to 17 C.F.R. § 201.1100 to 201.1106.

**I. OVERVIEW**

1. This matter concerns the distribution of a Fair Fund comprising disgorgement in the amount of \$9,698,835, prejudgment interest in the amount of \$1,703,981.66, and penalty in the amount of \$10,000,000, paid by BISYS pursuant to an Order Instituting Administrative and Cease-and-Desist Proceedings, Making Findings, and Imposing Remedial Sanctions and a Cease-and-Desist Order pursuant to Section 203(k) of the Investment Advisers Act of 1940, and Sections 9(b) and 9(f) of the Investment Company Act of 1940 as to BISYS Fund Services, Inc., Administrative Proceeding File No. 3-12432 (Sept. 26, 2006) (the "Order") entered against it by the Commission, without BISYS admitting or denying the findings in the Order. The Plan is subject to the notice and comment procedure set forth in paragraph 34, and review and approval by the Commission. The Commission retains jurisdiction over the implementation of the Plan.

## II. FACTUAL AND PROCEDURAL BACKGROUND

2. At the time of the Order, BISYS was a wholly-owned subsidiary of The BISYS Group, Inc., a publicly-traded Delaware corporation with its principal executive offices in Roseland, New Jersey.<sup>1</sup> BISYS, which was based in Columbus, Ohio, or its affiliates, acted as an administrator, distributor, fund accountant, and transfer agent to numerous mutual fund families. BISYS was registered with the Commission as a transfer agent.

3. On September 26, 2006, the Commission entered the Order. In the Order, the Commission found that:

BISYS entered into side agreements obligating BISYS to rebate a portion of its administration fee to the funds' advisers so that the fund advisers would continue to recommend BISYS as an administrator to the fund boards of trustees. Through these side agreements, fund advisers used fund assets to pay for marketing expenses incurred by the advisers to promote the funds. Occasionally, fund advisers also used the money dedicated by BISYS pursuant to these arrangements to pay expenses entirely unrelated to marketing, including check fraud losses, seed capital for new mutual funds, and settlement of disputes with third parties. If the fund advisers had not improperly used fund assets to subsidize these expenses, the fund advisers would have been required to pay the expenses using their own assets. From July 1999 to June 2004, BISYS provided over \$230 million from its administration fees for the benefit of the funds' advisers or

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<sup>1</sup> On August 1, 2007, BISYS Group, Inc. was acquired by an acquisition subsidiary of Citigroup, Inc. (the "Acquisition"). To the extent that this Proposed Plan of Distribution contains obligations intended to be fulfilled by BISYS Fund Services, Inc., that were not fulfilled prior to the Acquisition, relating to: (a) the payment of certain fees and expenses of the Independent Distribution Consultant, the Fund Administrator, or the Tax Administrator; and (b) obligations for cooperation and facilitation of distributions, those obligations will be fulfilled by Citi Fund Services, Inc.

third parties pursuant to these side agreements. As a result, the Commission found that BISYS willfully aided and abetted and caused violations of Sections 206(1) and 206(2) of the Advisers Act, and Sections 12(b) and 34(b) of the Investment Company Act, and Rule 12b-1(d) thereunder.

BISYS consented to the order without admitting or denying the findings therein.<sup>2</sup>

4. The Order requires, among other things, the appointment of an independent distribution consultant to oversee and assist in the administration of a Fair Fund defined and established pursuant to Section 308(a) of the Sarbanes-Oxley Act of 2002. The Fair Fund is to be distributed to benefit the 27 mutual fund families (for the benefit of their shareholders) that had marketing arrangements that are the subject of the Order. This Fair Fund will be administered as described more fully below.

5. Pursuant to the Order, BISYS has retained, and the Commission staff has found not unacceptable, Alan Friedman, Vice President of CRA International, Inc. to serve as the IDC. CRA International, Inc. is an economics consulting firm that has served as Independent Distribution Consultant pursuant to orders entered into by regulators with mutual funds for distribution of monies to shareholders. BISYS has agreed to pay all costs associated with the engagement of the IDC.

6. Definitions. For purposes of this Plan, the following terms have the following meanings:

a. "Allocation Period" means, with respect to a Fund Family, the period beginning on July 1, 1999 and ending on the earlier of (i) the date on which the Marketing Arrangement for that Fund Family was terminated, or (ii) June 30, 2004.

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<sup>2</sup> The Order is published at <http://sec.gov/litigation/admin/2006/ia-2554.pdf>.

b. "Calculation Date" means a date certain selected by the IDC for the commencement of calculation of the distributions, not to exceed one hundred and twenty (120) days preceding the date of the initial distribution under the Plan.

c. "Disclosure Statement" means a document, in a form not unacceptable to the staff of the Commission, to be sent to each Fund Family that is entitled to receive a Distribution Amount under the Plan, setting forth information relating to the calculation of the Distribution Amount for each Fund that is part of the Fund Family. The Disclosure Statement shall include (a) a statement characterizing the distribution and clearly indicating that the money is being distributed from an SEC Fair Fund; (b) a statement that payment will be made either by check or wire transfer; (c) a statement that any checks used for payment will be void after ninety (90) days; and (d) the name of a person to contact, to be used in the event of any questions regarding the distribution.

d. "Distributee" means the individual Funds within the Fund Families.

e. "Distribution Amount" means, (i) with respect to a Fund Family, the total amount of money paid into the Fair Fund, together with interest thereon (net of any applicable taxes and expenses) during the period such amount was held by the Fair Fund through the Calculation Date, to be distributed to that Fund Family; and (ii) with respect to a Fund, the total amount of money paid into the Fair Fund, together with interest thereon (net of any applicable taxes and expenses) during the period such amount was held by the Fair Fund through the Calculation Date, to be distributed to that Fund.

f. "Fund" means an individual mutual fund or portfolio that was part of a Fund Family during the Measurement Period.

g. “Fund Administrator” means Rust Consulting, Inc. (“Rust”) in its capacity as Fund Administrator under the Plan, or any successor Fund Administrator appointed by the Commission.

h. “Fund Family” means each of the 27 mutual fund families that had a marketing arrangement that is a subject of the Order.

i. “IDC” means Alan Friedman, Vice President of CRA International, Inc. in his capacity as Independent Distribution Consultant in accordance with the Order, or any successor Independent Distribution Consultant retained by BISYS in accordance with the Order.

j. “Liquidated Fund” means a Fund whose assets all have been sold, the proceeds of such sale have been distributed to shareholders in the Fund, the shares of such shareholders have been canceled, and all other steps necessary to terminate the existence of the Fund have been taken.

k. “Marketing Arrangement” means, with respect to each Fund Family, the arrangement under which BISYS set aside money from its fees for marketing expenses generally incurred by the advisers or BISYS to promote the Funds.

l. “Marketing Support Payment” means payments made by BISYS pursuant to Marketing Arrangements.

m. “Measurement Period” means the period from July 1, 1999 through June 30, 2004.

n. “Merged Fund” means a Fund that has been merged, in one or more transactions, into an identifiable Successor Entity.

o. "Prejudgment Interest" means the \$1,703,981.66 of prejudgment interest paid by BISYS under the Order.

p. "Successor Entity" means a mutual fund or portfolio into which a Merged Fund was merged and that continues to exist as a distinct entity.

q. "Surviving Fund" means a Fund that continues to exist as a distinct entity.

r. "Tax Administrator" means Damasco & Associates in its capacity as Tax Administrator of the Fair Fund, or any successor Tax Administrator appointed by the Commission.

7. BISYS paid to the Commission the monies called for under the Order on October 11, 2006, and the Commission currently has possession, custody and control over the Fair Fund comprised of disgorgement in the amount of \$9,698,835, prejudgment interest in the amount of \$1,703,981.66, and penalty in the amount of \$10,000,000.

8. The Fair Fund has been deposited at the U.S. Treasury Bureau of Public Debt (the "BPD") for investment in government obligations. Other than interest from those investments, it is not anticipated that the Fair Fund will receive any additional funds.

### **III. IMPLEMENTATION OF PLAN**

9. Purpose. The Plan is designed to allocate the Fair Fund among the mutual funds that had marketing arrangements with BISYS that are the subject of the Order during the period from July 1, 1999 through June 30, 2004; or, in the case of mutual funds that have been merged into other mutual funds, to their successors in interest. As set forth in paragraph 11 below, the Fair Fund is to be allocated, as defined below, in proportion to (i) in the case of the disgorgement and prejudgment interest components of the Fair Fund, the portion (if any) of the disgorgement amount attributable to each Fund Family; and (ii) in the case of the penalty, the amount of

administration fees paid by each Fund Family that were allocated to marketing during the Measurement Period, as defined below. Amounts allocated to each Fund Family are to be further allocated among the Funds, as set forth below, in proportion to the Marketing Support Payments attributable to each Fund within each Fund Family, during the Allocation Period, as defined below. The IDC believes this methodology will provide a fair and reasonable allocation of the Fair Fund.

10. Background. There are a number of features and considerations to this Fair Fund that influenced the development of this Plan, including the following:

a. The IDC has determined that:

i. \$9,698,835 represents the amount retained by BISYS from 11 particular Fund Families as a result of the Marketing Arrangements, at the time the Marketing Arrangements were terminated, and should be allocated to the 11 particular Fund Families.

ii. \$1,703,981.66 is the prejudgment interest on the retained amount calculated at the statutory rate from the time the Marketing Arrangements were terminated and should be allocated to the 11 particular Fund Families.

b. The remaining funds will be allocated to the 27 Fund Families based on each Fund Family's proportionate share of marketing fees paid in as described in paragraph 11(b).

c. Certain individual Funds have been merged or liquidated, and no longer exist as separate or identifiable entities.

d. The Fair Fund will not be distributed according to a claims-made process, so procedures for making and approving claims are not applicable.

e. The Fair Fund will be distributed to the Funds for the benefit of their shareholders, rather than to shareholders in those Funds. Accordingly, it will not be necessary to gather information about shareholder accounts.

f. The calculations described herein will be based on BISYS's records and publicly-available financial data, and calculated by the Fund Administrator and/or the IDC in accordance with the procedures outlined in this Plan.

g. In order to implement distribution to mutual funds, each fund eligible to receive a distribution will be notified that the allocated monies are designated solely for investors, should be deposited into the mutual funds' asset base, and are not to be used directly for administrative or management fees. In addition, the fund will be required to certify in advance that the money will be deposited into the mutual fund as intended. If a mutual fund fails to certify that distribution monies will be deposited into the mutual funds' asset base within the deadline specified by the Fund Administrator, then this mutual fund will no longer be considered eligible for a distribution, and the distribution allocated to that mutual fund will be reallocated in accordance with paragraph 11.

11. Calculation of Each Fund Family's Share of the Fair Fund.

a. Allocation to 11 Particular Fund Families. \$11,402,815.66 will be allocated among the 11 Fund Families from which BISYS retained marketing monies when BISYS terminated its marketing arrangements with the Fund Family. These allocations will be in the amounts that formed the basis for the Order, plus interest thereon (net of any applicable taxes and expenses) during the period such amounts were held by the Fair Fund through the Calculation Date.



b. Allocation to 27 Fund Families. \$10,000,000, plus interest thereon (net of any applicable taxes and expenses) during the period such amounts were held by the Fair Fund through the Calculation Date, will be allocated among all 27 Fund Families that are the subject of the Order, i.e., the Fund Families that had Marketing Arrangements with BISYS during the Measurement Period. The allocation to each Fund Family will be proportional to the total dollars accrued to the marketing account for that Fund Family during the Measurement Period.

c. Reallocation for Liquidation of a Fund Family. If all of the Funds that were part of a Fund Family have been liquidated, the Distribution Amount for that Fund Family will be reallocated among the other Fund Families pursuant to paragraph 11(b) above.

12. Allocation of the Distribution Amount within Each Fund Family.

a. Information Gathering. For purposes of determining the Distribution Amount for each Fund, the Fund Administrator will identify and contact the administrator of each Fund and will request the following information for the Fund:

- i. Whether the Fund currently is a Surviving Fund, a Liquidated Fund or a Merged Fund;
- ii. If the Fund is a Merged Fund, the identity of its Successor Entity;  
and
- iii. For each Surviving Fund or Successor Entity, instructions for payment of the Distribution Amount.

If the current administrator of the Fund is unable or unwilling to provide the requested information about the current status of the Fund, the Distribution Amount for the Fund

will be determined on the basis of (i) information filed by the Fund with the Commission, or, (ii) if the current status of the Fund cannot be determined from its filings with the Commission, the status of the Fund as of the time it ceased to be a client of BISYS.

b. Allocation Methodology. The next step in the calculation will be for the Fund Administrator and/or the IDC to allocate the Distribution Amount for each Fund Family among the Funds that were part of the Fund Family during the Allocation Period. The allocation will be proportional to the Marketing Support Payments<sup>3</sup> attributable to each Fund during each of its fiscal years that included any portion of the Allocation Period, compared to the total amount of the Marketing Support Payments attributable to all of the Funds in such Fund Family during each of their fiscal years that included any portion of the Allocation Period.

c. Treatment of Merged and Liquidated Funds.

i. If a Fund has been merged into another entity, the Distribution Amount for the Merged Fund will be distributed to its Successor Entity.

ii. If a Fund has been liquidated but other Funds that were part of the same Fund Family continue to exist, the Distribution Amount for the Liquidated Fund will be reallocated among the Surviving Funds that are part of the same Fund Family. The reallocation to each Surviving Fund will be calculated in

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<sup>3</sup> Marketing Support Payments will be estimated if the actual Marketing Support Payments attributable to each Fund in a given Fund Family are not readily available. In order to estimate the Marketing Support Payments attributable to each Fund in a given Fund Family, the computation shall utilize either total administrative fees or total net assets reported yearly by each Fund in a given Fund Family. The IDC shall determine the method to be used for computation, based on data availability and data reliability for each specific Fund Family. It is anticipated that most of the calculations will be based on estimated, not actual Marketing Support Payments.

accordance with the same methodology described in paragraph 12(b), without regard to the Liquidated Fund.

iii. If a Fund has been liquidated but other Funds that were part of the same Fund Family were merged into other identifiable entities, the Distribution Amount for the Liquidated Fund will be reallocated among the Successor Entities of the Merged Funds by the same methodology described in paragraph 12(b), without regard to the Liquidated Fund.

13. Determination of Fair Fund Amount for Purposes of Allocations. The distribution calculations set forth in paragraphs 11 and 12 shall be based on the Fair Fund principal and accrued interest as of the Calculation Date. Any interest earned on the Fair Fund after the Calculation Date shall be distributed as set forth in paragraph 31.

#### **IV. ADMINISTRATION OF THE PLAN**

14. Fund Administrator.

a. Rust Consulting, Inc. is proposed to be the Fund Administrator. BISYS shall facilitate the distribution as set forth above, subject to audit by the IDC. BISYS shall pay all fees and costs associated with the administration of the Plan, including the fees of the Fund Administrator.

b. In its capacity as Fund Administrator, Rust will be responsible, working with the IDC, for, among other things: overseeing the administration of the Fair Fund, obtaining accurate mailing information for the mutual funds that are to receive distributions, preparing accountings, cooperating with the tax administrator in providing the information necessary to accomplish income tax compliance, distributing money from the Fair Fund in accordance with the Plan, and setting up and staffing a call center,

informational website ([www.bisysfairfund.com](http://www.bisysfairfund.com)) or other appropriate means to address questions or concerns regarding the distribution.

c. Rust, if appointed as Fund Administrator, requests that the Commission waive the bond requirement for good cause, as provided under 17 CFR 201.1105(c). Good cause is shown specifically by the provisions of this Plan that (1) the Fund Administrator will have no custody, and only limited control, of the Fair Fund; (2) the Fair Fund will be held by the BPD on behalf of the Commission until immediately before transmittal of checks or electronic transfers to eligible investors; (3) upon transfer from the BPD, funds will be held in an escrow account (the "QSF Account," described *infra*) at U.S. Bank N.A., headquartered in Minneapolis, Minnesota, (the "Bank" or "U.S. Bank"), separate from Bank assets, until presentation of a check or electronic transfer, at which time funds will be transferred to a controlled distribution account; (4) presented checks or electronic transfers will be subject to "positive pay" controls before honored by the Bank; and (5) both the Bank and the Fund Administrator will maintain, throughout this process, insurance and/or a financial institution bond that covers errors and omissions, misfeasance, and fraud.

d. U.S. Bank maintains and will continue to maintain a Bankers Blanket Bond, which includes errors and omissions coverage with a single aggregate limit in the amount of \$85 million. The primary insurer is Indian Harbor Insurance Company, a company which, as of its most recent renewal, was rated "A+" by A.M. Best/Standard and Poor's. U.S. Bank annually assesses the adequacy of their policy limits through extensive analysis of historical loss data, exposure to loss and internal company controls. The limits of U.S. Bank are reviewed annually by the companies' Board of Directors.

Documentation has been provided to the assigned Commission staff to support the foregoing representations.

e. In lieu of bond, the Fund Administrator maintains and will continue to maintain insurance until termination of the Fund. The current primary insurer, Illinois Unions Ins. Co. (ACE USA), is a company which, as of its most recent renewal, was rated "A+ XV" by A.M. Best. The Fund Administrator maintains and will continue to maintain until termination of the Fund, Errors and Omissions ("E&O") insurance in the amount of \$10,000,000, which protects against errors and omissions committed by employees of the Fund Administrator in the course of their performance of professional services. The E&O policy has a policy limit of \$10,000,000 per occurrence and an overall limit of \$10,000,000 during the life of the policy. The Fund Administrator also maintains an additional \$10,000,000 in excess E&O insurance, as well as \$5,000,000 in general liability. Lastly, the Fund Administrator maintains a crime policy in the amount of \$5,000,000 per occurrence, which 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. It protects against errors and omissions committed by employees of the Fund Administrator in the course of their performance of professional services. Under the Plan of Distribution, at no time will there be funds under the custody and control of the Fund Administrator that exceed the amount covered by insurance. Documentation has been provided to the assigned Commission staff to support the foregoing representations.

f. Neither the Fund Administrator nor the IDC will have discretion with respect to the payment of the Fair Fund because payment amounts will be determined and paid in accordance with the process set forth above.

15. The assets of the Fair Fund are subject to the continuing jurisdiction and control of the Commission. The Fair Fund is currently deposited at the BPD.

16. The Fair Fund constitutes a Qualified Settlement Fund ("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.

17. Upon approval of the Plan, pursuant to an Escrow Agreement provided by and approved by Commission staff, the Fund Administrator shall establish an Escrow Account (the "QSF account" or "Escrow Account") and an unfunded Controlled Distribution Account at U.S. Bank, in the name of and bearing the Employer Identification Number ("EIN") of the QSF as custodian for the distributees of the Distribution Plan. The name of each account shall be in the following form: Name of QSF, (EIN), as custodian for the benefit of investors allocated a distribution from the BISYS Plan of Distribution. Following approval of the Plan and submission by the IDC of a list of payees and amounts to the Commission staff and all information necessary to make disbursement to each distributee, and unless otherwise directed by the Commission, the Commission staff shall cause the balance in the Fair Fund to be deposited in the QSF account.

18. U.S. Bank will hold the Fair Fund assets during the check-cashing period. The Fund Administrator shall be the signer on the Escrow Account and the Controlled Distribution Account, subject to the continuing jurisdiction and control of the Commission.

19. Upon transfer from Treasury, the Funds will be held in the Escrow Account, separate from U.S. Bank assets, until presentation of a check. Presented checks will be subject to “positive pay” controls before they are honored by U.S. Bank, at which time funds will be transferred from the Escrow Account to the Controlled Distribution Account to pay the approved checks.

20. The Fund Administrator shall authorize U.S. Bank to provide account information to the Tax Administrator, including providing duplicate statements for the QSF account. The Fund Administrator shall use the assets and earnings of the Disgorgement Fund to provide payments to Eligible Recipients and to provide the Tax Administrator with assets to pay tax liabilities and tax compliance fees and costs.

21. The Escrow Account shall be invested in AAA- rated Money Market Mutual Funds registered under the Investment Company Act of 1940 that directly invest in short term U.S. Treasury securities and obligations, all backed by the full faith and credit of the U.S. Government; provided however, that the Money Market Mutual Funds’ investments in short term U.S. Treasury securities will not be made through repurchase agreement or other derivative products.

22. Tax Matters. The Commission has appointed Damasco & Associates as the Tax Administrator of the Fair Fund (“Tax Administrator”) to file tax returns as appropriate on behalf of the Fair Fund as provided under 17 CFR 1101(b)(6). See Order Appointing Tax Administrator, Administrative Proceeding File No. 3-12432, Exchange Act Release No. 54635 (October 20, 2006). The IDC, the Fund Administrator and BISYS 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. All fees and

expenses of the Tax Administrator in connection with the Plan shall be borne by BISYS. Taxes incurred from the Plan shall be paid first from the interest earned on the funds, and if the interest is not sufficient, then from the corpus.

23. Coordinating with Tax Administrator. Before submitting a validated list of payees to Commission staff, the Fund Administrator will coordinate with the Tax Administrator to determine whether it is necessary to solicit an IRS Form W-9 (for U.S. or resident entities) or W-8 (for Foreign or non-resident entities) from each mutual fund.

24. Disclosure Statements. Not less than sixty (60) days before the scheduled date of the first distribution under the Plan, the Fund Administrator will send a Disclosure Statement to the board of directors of each Fund Family; or, if such information is not available, to the administrator (or other identifiable and appropriate representative) of each Fund Family. Prior to sending the Disclosure Statement to each Fund Family, the IDC will submit the form of Disclosure Statement to the assigned Commission staff for their review.

25. Validation Procedures. In order to distribute the funds, the IDC will submit a validated Payee List 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 Payee List and amounts will be validated by the IDC or at the IDC's direction by the Fund Administrator. The validation will state that the Payee List was compiled in accordance with the Plan and provides all information necessary to make disbursement to each distributee. The validated Payee List is a condition precedent for the Commission staff to obtain from the Commission an order to disburse funds to the Recipient Funds pursuant to this Plan. Unless otherwise directed by the Commission, the Commission staff will obtain an Order Directing Disbursement that releases



funds to the Escrow Account based upon the validated Payee List and representation by the Fund Administrator that the checks or electronic transfers will be issued within five business days.

26. At the direction of the IDC, the Fund Administrator shall use the list of payees to issue and mail checks in the amounts specified and to the addresses listed for each Fund Family. 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 required of the QSF and other related tax consequences; (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, on their face, or in the accompanying mailing will clearly indicate that the money is being distributed from a Fair Fund established by the Commission. This communication shall be submitted to the Commission staff for review and approval prior to being sent with the payments. The checks issued by U.S. Bank shall indicate that the checks will be void after ninety (90) days. Checks that are not negotiated within 90 days shall be voided, and U.S. Bank shall be instructed to stop payment on those checks.

27. The Method of Distribution to Each Fund of Its Share of the Fair Fund.

- a. Monies will be distributed as soon as practicable after (i) the expiration of the dispute resolution period in accordance with paragraph 29; and (ii) the receipt of approval from the Commission in accordance with paragraph 25.
- b. Each Fund Family will receive its Distribution Amount as follows:

- i. Each Fund whose current administrator has provided payment instructions to the Fund Administrator will receive its Distribution Amount in accordance with such payment instructions.
    - ii. Each Fund whose current administrator has not provided payment instructions will receive its Distribution Amount in the form of a check payable to the Fund and sent to its current administrator, based on the best information available to the Fund Administrator.
  - c. After issuance of the Order to Disburse, payments will be made to eligible mutual funds according to a schedule determined by the IDC after consultation with Commission staff.
28. Undistributed Funds.
- a. One of the goals of the distribution process is to minimize the amount of funds that are not distributed to Funds eligible for a distribution.
  - b. When possible, Distribution Amounts will be distributed by electronic funds transfers. Physical checks will be used to make distributions only when the Fund Administrator is unable to obtain information necessary to make an electronic transfer or when a Fund exercises its option to receive a check.
  - c. All physical checks will bear a stale date of ninety (90) days from the date of issue. If any physical check is not cashed by the stale date, that check shall be void and the issuing financial institution shall be instructed to stop payment on the check and delete it from the register.
  - d. If any physical check is returned as "undeliverable," the Fund Administrator will contact, within fourteen (14) business days after receipt of such

returned check, the current administrator of the Fund to which the check is payable and will request alternative payment instructions. If necessary, a new physical check shall be issued and delivered in accordance with such alternative payment instructions.

e. If checks from the Fair Fund remain uncashed after ninety (90) days from the date of the first distribution, the Fund Administrator shall make reasonable efforts to contact any Fund that has failed to cash its distribution check and take appropriate action to reissue any such checks as necessary to enable such Fund to receive its Distribution Amount. If any such checks can't be reissued, the undistributed funds shall become part of the residual for transfer to the US Treasury in accordance with paragraph 31.

f. After all checks, expenses, and any other disbursements have been reconciled, any remaining funds shall become part of the residual to be transferred to the US Treasury in accordance with paragraph 31.

29. Procedures for Handling Disputes.

All disputes, in order to be acted upon, must be submitted in writing with all supporting documentation for the dispute to the Fund Administrator. The Fund Administrator will then promptly forward all materials received from the disputing party along with all other relevant information to the IDC, who will investigate any dispute and issue a decision as to the resolution of the dispute. Once the Plan has been approved by the Commission, disputes shall be limited to matters relating to the calculation of the Distribution Amount for each Fund in accordance with the Plan. The IDC shall maintain a record of all such disputes and the resolution thereof. The determination by the IDC shall be final as to the dispute. This procedure will be set forth in the Disclosure Statement accompanying or preceding the distributions. All disputes must be submitted within forty (40) days after the Disclosure Statement is sent to the Fund Family in

accordance with paragraph 24 of this Plan. Final resolution of the dispute shall be made within thirty (30) days thereafter.

30. Accountings. Once the Fair Fund has been transferred from the BPD to U.S. Bank, the Fund Administrator will file an accounting during the first ten days of each calendar quarter on a standardized accounting form provided by the staff of the Commission. Once all of the funds have been transferred from U.S. Bank to the Distributees, all of the taxes and fees have been paid, and any remaining funds have been transferred to the U.S. Treasury, the Fund Administrator will submit a final accounting on a standardized accounting form provided by the staff of the Commission for approval by the Commission prior to termination of the Fair Fund and discharge of the Fund Administrator.

31. Fair Fund Termination. Upon final distribution of the funds, the Fund Administrator shall make arrangements for the final payment of taxes and Tax Administrator fees and shall submit a final accounting to the Commission in an SEC standard accounting format provided by the staff of the Commission. The Distribution Fund shall be eligible for termination after all of the following have occurred: (1) the Final Accounting by the Administrator has been submitted and approved by the Commission; (2) all taxes and fees have been paid; and (3) all remaining funds or any residuals have been transferred to the U.S. Treasury. Staff shall seek an order from the Commission to (1) approve the Final Accounting; (2) approve sending the remaining residual amount to the U.S. Treasury after the final tax payment has been made; and (3) authorize the Secretary of the Commission, upon receipt of notice from the staff assigned to this matter that all funds have been expended, to discharge the Fund Administrator.


32. Timing of Activities. For good cause shown, the Commission staff may extend any of the dates and/or time limits set forth in the Plan.

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

**V. NOTICE OF PROPOSED PLAN**

34. In accordance with 17 CFR 201.1101(b)(3), notice of this Plan shall be published in the *SEC Docket*, on the Commission's website, [www.sec.gov](http://www.sec.gov), and the BISYS website ([www.bisys.com](http://www.bisys.com)). Any person or entity wishing to comment on the Plan must do so in writing by submitting their comments via first class mail to the Office of the Secretary, United States Securities and Exchange Commission, 100 F St, N.E., Washington, D.C. 20549-1090, by using the Commission's internet comment form, [www.sec.gov/litigation/admin.shtml](http://www.sec.gov/litigation/admin.shtml), or by sending an email to [Rule-comments@sec.gov](mailto:Rule-comments@sec.gov) within thirty (30) days of the publication date of the Notice. Comments submitted via first class mail, email or the Commission's website should include the Administrative Proceeding File No. 3-12432 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: 5/20/19 (date)

By:   
BISYS Fund Services, Inc., now known as  
Citi Fund Services, Inc.