



DIVISION OF  
CORPORATION FINANCE

UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

June 8, 2009

David S. Huntington, Esq.  
Paul, Weiss, Rifkind, Wharton & Garrison LLP  
1285 Avenue of the Americas  
New York, NY 10019-6064

**Re: In the Matter of Evergreen Investment Management Company, LLC and  
Evergreen Investment Services, Inc. – Waiver Request under Regulation A and  
Rule 505 of Regulation D**

Dear Mr. Huntington:

This responds to your letter dated today, written on behalf of Evergreen Investment Management Company, LLC and Evergreen Investment Services, Inc. (together, “the Respondents”), and constituting an application for relief under Rule 262 of Regulation A and Rule 505(b)(2)(iii)(C) of Regulation D under the Securities Act of 1933. You requested relief from any disqualification from exemptions available under Regulation A and Rule 505 that may have arisen by reason of the administrative order entered today under sections 15(b)(4) and 21C of the Securities Exchange Act of 1934 (“Exchange Act”), sections 203(e) and 203(k) of the Investment Advisers Act of 1940 (“Investment Advisers Act”), and sections 9(b) and 9(f) of the Investment Company Act of 1940 by the Securities and Exchange Commission in In the Matter of Evergreen Investment Management Company, LLC and Evergreen Investment Services, Inc., Release No. 33-60059 (the “Order”). You also requested relief from disqualifications under Regulation A and Rule 505 of Regulation D that arise as a result of the entry of any related state order, judgment, or decree arising from the same facts and circumstances addressed in the Order.

Certain orders entered under section 15(b) of the Exchange Act and section 203(e) of the Investment Advisers Act result in such disqualification. Paragraph IV(G) of the Order, which orders the Respondents to comply with certain undertakings, insofar as it was entered under section 15(b) of the Exchange Act or section 203(e) of the Investment Advisers Act, may be such a provision. The Order also includes other remedial sanctions that do not result in disqualification under Rule 262 or Rule 505.

For purposes of this letter, we have assumed, as facts, the representations set forth in your letter and the findings supporting entry of the Order. We also have assumed that the Respondents will comply with the Order.

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Evergreen Investment Management Company, LLC  
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On the basis of your letter, I have determined that you have made showings of good cause under Rule 262 and Rule 505 that it is not necessary under the circumstances to deny the exemptions available under Regulation A and Rule 505 by reason of entry of the Order or any related state order, judgment, or decree arising from the same facts and circumstances as those addressed in the Order. Accordingly, pursuant to delegated authority, and without determining whether or not any such disqualification arose by virtue of entry of the Order, the Respondents and other persons subject to any disqualification from exemptions otherwise available under Regulation A and Rule 505 that arose by reason of entry of the Order are granted relief from such disqualification.

Very truly yours,

A handwritten signature in black ink that reads "Gerald J. Laporte". The signature is written in a cursive style with a large initial "G".

Gerald J. Laporte  
Chief, Office of Small Business Policy

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Re: In the Matter of Evergreen Investment Management Company, LLC and  
Evergreen Investment Services, Inc. (File No. B-2389) – Waiver Request  
under Regulation A and Rule 505 of Regulation D

Dear Mr. Laporte:

We submit this letter on behalf of our clients Evergreen Investment Management Company, LLC (“EIMCO”) and Evergreen Investment Services, Inc. (“EIS,” and, together with EIMCO, the “Settling Firms”), in connection with the settlement between the Settling Firms and the Securities and Exchange Commission (the “Commission”) in the above referenced administrative proceedings. The Settling Firms are indirect subsidiaries of Wells Fargo & Company (“Wells Fargo”). Through its direct and indirect subsidiaries, Wells Fargo offers banking, brokerage, advisory and other financial services to institutional and individual customers worldwide.

The Settling Firms request, pursuant to Rule 262 of Regulation A and Rule 505(b)(2)(iii)(C) of Regulation D promulgated under the Securities Act of 1933, as amended (the “Securities Act”), a waiver of any disqualification from exemptions under Regulation A and Rule 505 of Regulation D that may be applicable to the Settling Firms,

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any of their affiliates or any issuer, offering participant or other person as a result of the entry of the Order (as defined below) or any related state order, judgment or decree arising from the same facts and circumstances addressed in the Order.<sup>1</sup> We request that this waiver be made effective upon entry of the Order.

### BACKGROUND

The Settling Firms have engaged in settlement discussions with the staff of the Division of Enforcement in connection with the administrative proceedings referenced above, which were brought pursuant to Sections 15(b)(4) and 21C of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), Sections 203(e) and 203(k) of the Investment Advisers Act of 1940, as amended (the "Advisers Act"), and Sections 9(b) and 9(f) of the Investment Company Act of 1940, as amended (the "Investment Company Act"). As a result of these discussions, the Settling Firms submitted an offer of settlement, pursuant to which they consented to an Order of the Commission, which was entered on the date of this letter (the "Order"). Under the terms of the offer of settlement, the Settling Firms neither admitted nor denied any of the findings in the Order, except as to jurisdiction.

The Order relates to violations of the federal securities laws by the Settling Firms as a result of the overstatement of the net asset value of the Evergreen Ultra Short Opportunities Fund (the "Ultra Fund"), the selective disclosure of certain information concerning the Ultra Fund to some but not all Ultra Fund shareholders, certain prohibited securities transactions involving the Ultra Fund and the failure to comply with certain record-keeping requirements. Under the terms of the Order, the Commission:

- (i) Censured EIMCO under Section 203(e) of the Advisers Act and censured EIS under Section 15(b)(4) of the Exchange Act;
- (ii) Required EIMCO to cease and desist from committing or causing any violations or any future violations of Sections 204A and 206(2) of the Advisers Act and Sections 17(a)(1) and 34(b) of the Investment Company Act and Rule 22c-1(a) promulgated thereunder;
- (iii) Required EIS to cease and desist from committing or causing any violations or any future violations of Section 206(2) of the Advisers Act and Sections 15(f) and Section 17(a) of the Exchange Act, Rule 17a-4(b)(4) promulgated under the Exchange Act and Rule 22c-1(a) promulgated under the Investment Company Act;
- (iv) Required EIMCO to pay disgorgement of \$2,860,000, prejudgment interest of \$265,000 and a civil penalty of \$2,000,000;

<sup>1</sup> The Settling Firms expect to enter into a settlement with the Massachusetts Securities Division arising from matters related to the activity described in the Order. To the extent that any such settlement may result in an order, judgment or decree that would cause an ineligibility under Regulation A or Regulation D, this request also covers any such resulting ineligibility.

- (v) Required EIS to pay disgorgement of \$1 and a civil penalty of \$2,000,000;
- (vi) Required the Settling Firms to establish a Fair Fund pursuant to Section 308(a) of the Sarbanes-Oxley Act of 2002; and
- (vii) Required the Settling Firms to comply with certain undertakings set forth in the Order, including making a payment of \$33,000,000 to compensate Ultra Fund shareholders and appointing an Independent Compliance Consultant.

### DISCUSSION

The Settling Firms understand that the Order could disqualify them, their affiliated entities and issuers, offering participants and other persons from participating in certain offerings otherwise exempt under Regulation A and Rule 505 of Regulation D promulgated under the Securities Act insofar as the Settling Firms are subject to an order of the Commission entered pursuant to Section 15(b) of the Exchange Act or Section 203(e) of the Advisers Act. The Commission has the authority to waive the exemption disqualification under Regulation A and Rule 505 of Regulation D upon a showing of good cause that such disqualifications are not necessary under the circumstances. See Rule 262 of Regulation A and Rule 505(b)(2)(iii)(C) of Regulation D.<sup>2</sup> The Settling Firms request that the Commission waive any disqualifying effects that the Order or any related state order, judgment or decree arising from the same facts and circumstances addressed in the Order may have under Regulation A and Rule 505 of Regulation D with respect to the Settling Firms, their affiliates or any issuer, offering participant or other person on the following grounds:

1. The conduct of the Settling Firms addressed in the Order does not relate to offerings under Regulation A or Rule 505 of Regulation D.
2. The Settling Firms voluntarily cooperated with the Division of Enforcement in the investigation of this matter and agreed to pursue a comprehensive settlement at the request of the Division of Enforcement. Under the terms of the settlement, the Settling Firms agreed to undertake certain remedial and corrective measures related to compliance oversight.
3. The disqualification of the Settling Firms, their affiliates and other persons from the exemptions under Regulation A and Rule 505 of Regulation D

<sup>2</sup> We note in support of this request that the Commission has in other instances granted relief under Rule 262 of Regulation A and Rule 505(b)(2)(iii)(C) of Regulation D. See, e.g., Gabelli Funds, LLC, SEC Letter (pub. avail. Apr. 24, 2008); Bank of America Securities LLC, SEC Letter (pub. avail. May 31, 2006); Citigroup Global Markets, Inc., SEC Letter (pub. avail. May 31, 2006); J.P. Morgan Securities, Inc., SEC Letter (pub. avail. May 31, 2006); Wachovia Capital Markets, LLC, SEC Letter (pub. avail. May 31, 2006); American International Group, Inc., SEC Letter (pub. avail. Dec. 7, 2004); Goldman, Sachs & Co., SEC Letter (pub. avail. Oct. 30, 2003); Credit Suisse First Boston Corporation, SEC Letter (pub. avail. Jan. 29, 2002); Dain Rauscher, Incorporated, SEC Letter (pub. avail. Sept. 27, 2001); Legg Mason Wood Walker, Incorporated, SEC Letter (pub. avail. June 11, 2001).

Gerald J. Laporte, Esq.

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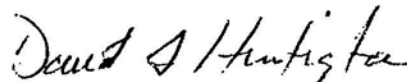
would have an adverse impact on third parties that retain or provide services to either of the Settling Firms or any of their affiliates in connection with transactions that may need to be made in reliance on these exemptions.

4. The disqualification of the Settling Firms, their affiliates and other persons from the exemptions under Regulation A and Rule 505 of Regulation D would be unduly and disproportionately severe, given that the Commission staff has negotiated a settlement with the Settling Firms and reached a satisfactory conclusion to the matter addressed in the Order.
5. The Division of Enforcement does not object to the granting of the requested waiver.

In light of the foregoing, the Settling Firms believe that they have shown good cause that relief should be granted. Accordingly, we respectfully request the Commission, pursuant to Rule 262 of Regulation A and Rule 505(b)(2)(iii)(C) of Regulation D, to waive, effective as of the entry of the Order, the disqualification provisions in Regulation A and Rule 505 of Regulation D to the extent they may be applicable to the Settling Firms, any of their affiliates or any issuer, offering participant or other person as a result of the Order or any related state order, judgment or decree arising from the facts and circumstances addressed in the Order.

Please do not hesitate to contact me at (212) 373-3124 regarding this request.

Sincerely yours,



David S. Huntington

cc: Charles Neal, Wells Fargo & Company