

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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SECURITIES AND EXCHANGE COMMISSION, : ORDER
Plaintiff, :
-against- : 03 Civ. 2937 (WHP)
BEAR, STEARNS & CO. INC., :
Defendant. :

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SECURITIES AND EXCHANGE COMMISSION, :
Plaintiff, :
-against- : 03 Civ. 2938 (WHP)
JACK BENJAMIN GRUBMAN, :
Defendant. :

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SECURITIES AND EXCHANGE COMMISSION, :
Plaintiff, :
-against- : 03 Civ. 2939 (WHP)
J.P. MORGAN SECURITIES INC., :
Defendant. :

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SECURITIES AND EXCHANGE COMMISSION, :
Plaintiff, :
-against- : 03 Civ. 2940 (WHP)
LEHMAN BROTHERS INC., :
Defendant. :

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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SECURITIES AND EXCHANGE COMMISSION, :

Plaintiff, :

-against- : 03 Civ. 2941 (WHP)

MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED :

Defendant. :

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SECURITIES AND EXCHANGE COMMISSION, :

Plaintiff, :

-against- : 03 Civ. 2942 (WHP)

U.S. BANCORP PIPER JAFFRAY INC., :

Defendant. :

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SECURITIES AND EXCHANGE COMMISSION, :

Plaintiff, :

-against- : 03 Civ. 2943 (WHP)

UBS SECURITIES LLC, f/k/a UBS WARBURG LLC, :

Defendant. :

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SECURITIES AND EXCHANGE COMMISSION, :

Plaintiff, :

-against- : 03 Civ. 2944 (WHP)

GOLDMAN, SACHS & CO., :

Defendant. :

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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SECURITIES AND EXCHANGE COMMISSION, :
Plaintiff, :

-against- : 03 Civ. 2945 (WHP)

CITIGROUP GLOBAL MARKETS INC., :
f/k/a SALOMON SMITH BARNEY, :
Defendant. :

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SECURITIES AND EXCHANGE COMMISSION, :
Plaintiff, :

-against- : 03 Civ. 2946 (WHP)

CREDIT SUISSE FIRST BOSTON LLC, :
f/k/a CREDIT SUISSE FIRST BOSTON :
CORPORATION, :
Defendant. :

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SECURITIES AND EXCHANGE COMMISSION, :
Plaintiff, :

-against- : 03 Civ. 2947 (WHP)

HENRY McELVEY BLODGET, :
Defendant. :

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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SECURITIES AND EXCHANGE COMMISSION, :

Plaintiff, :

-against- : 03 Civ. 2948 (WHP)

MORGAN STANLEY & CO. INCORPORATED, :

Defendant. :

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WILLIAM H. PAULEY III, District Judge:

On October 31, 2003, this Court approved and entered the Final Judgments in these related actions resolving the SEC's complaints against ten major investment banks and two individuals concerning equity research analyst practices in the late-1990s.¹ In addition, for each the seven investment bank defendants contributing investor education funds,² this Court entered an Order Regarding Investor Education ("Investor Education Orders"). Section B of the Investor Education Orders required the SEC to propose an Investor Education Plan for this Court's consideration and approval (the "Proposed Plan"). See, e.g., Bear, Stearns & Co., Inc. Investor Education Order § B.1. The Commission

¹ All defined terms from this Court's prior Orders in these actions apply to this Order.

² The seven investment bank defendants making Investor Education Fund payments are Bear, Stearns, Citigroup Global Markets, Goldman Sachs, J.P. Morgan Securities, Lehman Brothers, Merrill Lynch, and UBS Securities.

submitted the Proposed Plan, appended hereto as Exhibit A, on February 13, 2004.

The Proposed Plan calls for the creation of an Investor Education Entity, incorporated as a tax exempt organization pursuant to Section 501(c) of the Internal Revenue Code, that will "act as a catalyst to facilitate widespread dissemination of neutral, unbiased information designed to equip Americans with the knowledge and skills necessary to make informed investment decisions." (Proposed Plan §§ II, III.A.) Importantly, the Proposed Plan contemplates that the Investor Education Entity will be an ongoing organization that will be able to receive additional funds in the future from sources other than the Investor Education Funds paid by the investment bank defendants in these related actions. (Proposed Order § III.A.)

Administratively, the Proposed Plan provides that the affairs of the contemplated Investor Education Entity will be governed by a Board of Directors under the leadership of the Chairman of the Board, Charles D. Ellis,³ and its day-to-day operations will be conducted by its Executive Director, George G. Daly.⁴ The Proposed Plan calls for the Chairman of the Board and

³ This Court appointed Mr. Ellis the position of Chairman of the Board of Directors of the contemplated Investor Education Entity in an Order dated March 22, 2004. (Order of Appointment, dated March 22, 2004.)

⁴ This Court appointed Mr. Daly to the position of Executive Director of the contemplated Investor Education Entity

the Executive Director to create the Investor Education Entity to upon judicial approval of the Plan. This Court has every confidence that once the Investor Education Entity is established, it will meet and surpass its laudable mandate. As this Court noted in its Order entering the Final Judgments in these related actions, the contemplated Investor Education Entity will benefit the entire nation at a time when increasing numbers of American households are investing in the equity markets.

(Order, dated October 31, 2003, at 7.)

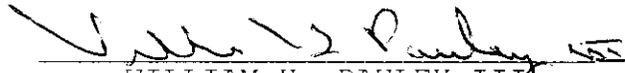
Accordingly, the Proposed Plan is approved, and this Court hereby enters it as the Investor Education Plan in these actions. The Clerk is directed to file copies of this Order in all of the related actions: (1) SEC v. Bear Stearns and Co. Inc., 03 Civ. 2937 (WHP); (2) SEC v. Jack B. Grubman, 03 Civ. 2938 (WHP); (3) SEC v. J.P. Morgan Securities Inc., 03 Civ. 2939 (WHP); (4) SEC v. Lehman Brothers Inc., 03 Civ. 2940 (WHP); (5) SEC v. Merrill Lynch Pierce Fenner & Smith, Inc., 03 Civ. 2941 (WHP); (6) SEC v. U.S. Bancorp Piper Jaffray, Inc., 03 Civ. 2942 (WHP); (7) SEC v. UBS Securities LLC, 03 Civ. 2943 (WHP); (8) SEC v. Goldman, Sachs and Co., 03 Civ. 2944 (WHP); (9) SEC v. Citigroup Global Markets Inc., 03 Civ. 2945 (WHP); (10) SEC v. Credit Suisse First Boston LLC, 03 Civ. 2946 (WHP); (11) SEC v.

in an Order dated March 24, 2004. (Order of Appointment, dated March 24, 2004.)

Henry M. Blodget, 03 Civ. 2947 (WHP); and (12) SEC v. Morgan Stanley & Co. Incorporated, 03 Civ. 2948 (WHP).

Dated: March 25, 2004
New York, New York

SO ORDERED:



WILLIAM H. PAULEY III
U.S.D.J.

EXHIBIT A

Investor Education Plan

February 11, 2004

I. Introduction

On October 31, 2003, the Court presiding over the federal civil actions that are part of the Global Research Analyst Settlement (the “Federal Actions”) entered consent Final Judgments against ten leading investment firms to resolve issues pertaining to conflicts of interest between investment banking and research at those firms.¹ The Final Judgments against seven of the firms call for those seven firms² to make combined total payments, in five equal annual installments, of \$80 million for investor education. Of that amount, \$52.5 million will be paid in the Federal Actions. Also on October 31, 2003, the Court entered Orders Regarding Investor Education (“Investor Education Orders”) in the dockets of the Federal Actions against those seven firms. Section B of the Investor Education Orders requires the Securities and Exchange Commission (“SEC” or “Commission”) to propose an Investor Education Plan for the Court’s consideration and approval.

Following is the Commission’s Investor Education Plan (“Plan”). This Plan is meant to supplement, rather than replace, the provisions of the Final Judgments regarding investor education and the Investor Education Orders.

II. Mission

The Investor Education Entity (“Entity”) as defined in the Final Judgments and Investor Education Orders in the Federal Actions³ will act as a catalyst to facilitate widespread dissemination of neutral, unbiased information designed to equip Americans with the knowledge and skills necessary to make informed investment decisions. After the Executive Director and members of the Board of Directors of the Entity are identified, the Entity will more specifically define its vision and mission by, among other things, assessing the current state of investor education in America,

¹ The Federal Actions, all pending in the United States District Court for the Southern District of New York, include: *SEC v. Bear, Stearns & Co. Inc.*, No. 03 Civ. 2937 (WHP); *SEC v. Citigroup Global Markets Inc., f/k/a Salomon Smith Barney Inc.*, No. 03 Civ. 2945 (WHP); *SEC v. Credit Suisse First Boston LLC, f/k/a Credit Suisse First Boston Corporation*, No. 03 Civ. 2946 (WHP); *SEC v. Goldman, Sachs & Co.*, No. 03 Civ. 2944 (WHP); *SEC v. J.P. Morgan Securities Inc.*, No. 03 Civ. 2939 (WHP); *SEC v. Lehman Brothers, Inc.*, No. 03 Civ. 2940 (WHP); *SEC v. Merrill Lynch, Pierce, Fenner & Smith Incorporated*, No. 03 Civ. 2941 (WHP); *SEC v. Morgan Stanley & Co. Incorporated*, No. 03 Civ. 2948 (WHP); *SEC v. UBS Securities LLC, f/k/a UBS Warburg LLC*, No. 03 Civ. 2943 (WHP); and *SEC v. U.S. Bancorp Piper Jaffray, Inc.*, No. 03 Civ. 2942 (WHP).

² Those seven firms are Bear Stearns, Citigroup Global Markets, Goldman Sachs, J.P. Morgan Securities, Lehman Brothers, Merrill Lynch, and UBS Securities.

³ All defined terms in the Final Judgments and Investor Education Orders in the Federal Actions apply to this Investor Education Plan.

and identifying gaps where the Entity can best equip Americans with the knowledge and skills necessary to make informed investment decisions. Through this process, the Entity will set forth a second, more detailed plan for achieving this goal. The Entity will submit the second plan within the first six months of operation. The Entity will submit this plan to the Commission staff thirty days before submitting it to the Judge for approval. Only then will the Entity call for grant applications to accomplish the specific purposes set forth in that plan.

III. Structure of the Investor Education Entity

A. Non-profit

After judicial approval of this Plan, the Entity will be incorporated as a tax exempt organization pursuant to Section 501(c) of the Internal Revenue Code. There will be a single Entity to manage all of the investor education payments made by the firms identified in footnote 2 above and by other persons. The Articles of Incorporation and Bylaws will be presented to the Court for approval before filing them with the State. The Articles and Bylaws will set forth the structure and tenure of the Board of Directors and the authority and duties of the Officers.

It is contemplated that the Entity will be an ongoing organization with an indeterminate life span. The Entity shall be structured so as to be able to receive additional funds in the future from other sources. The books and records of the Entity shall be maintained at its principal office.

B. Chairman of the Board

The SEC has submitted to the Court for its consideration the name of a candidate for the position of Chairman of the Board of the Entity. The affairs of the Entity shall be governed by the Board of Directors under the leadership of the Chairman of the Board. The Board of Directors may exercise all the powers and authority granted to the Entity by law. The Chairman shall not be compensated for his service, although he may be reimbursed reasonable travel expenses to attend Board Meetings or other Board-approved events.

C. Executive Director

The SEC has submitted to the Court for its consideration the names of candidates for the position of Executive Director. Once appointed by the Court, the Executive Director shall promptly cause the Entity to be established in accordance with all applicable legal requirements. The Executive Director shall be responsible for the day-to-day operations of the Entity. The Executive Director will distribute monies from the Investor Education Fund pursuant to this Plan or as authorized by the Court, shall file all required tax returns on behalf of the Investor Education Fund and the Entity, and shall submit all required reports to the Court and the Commission, including the quarterly reports and applications described in the "Audit Procedures

and Reporting Requirements” section below. The Executive Director has the power to retain and engage personnel necessary to assist in the administration of the Plan and the operation of the Entity.

The salary of the Executive Director shall be paid from Fund amounts and shall be comparable to the salary of Executive Directors of comparable non-profit entities.

D. Board of Directors

A Board, composed of 5-7 people (including the Chairman) who will be selected in the first instance by the Chairman, in consultation with the Executive Director, and who will be not unacceptable to the Commission, shall make the ultimate determination as to the recipients of grant amounts. This Board also shall be solely responsible for all decisions connected with investing Plan funds. The Board will define the vision and mission of the Entity and will make all funding decisions on individual grants. The definition of the Entity’s vision and mission and funding decisions shall be fully consistent with the terms of the Final Judgments and the Investor Education Orders. Board members shall be compensated a nominal amount for their service, and may be reimbursed reasonable travel expenses to attend Board Meetings or other Board-approved events. Board members will be people who have distinguished themselves in their professions, and may include investors, academics, educators, professional communicators, and fundraisers. The Board and its members must be non-partisan and non-political to achieve its goals. Board members must be independent from the securities firms that are the defendants in this case, as well as the federal and state regulators and SROs who participated in the global settlement.

E. Certain Conditions Regarding Chairman, Executive Director, and Board Members

While the Plan is under judicial oversight, the Court may remove the Chairman of the Board *sua sponte* or for good cause shown upon application of the Commission. Under the Investor Education Orders, the Chairman, Executive Director, and Board members must give sixty days’ written notice to the Court and to the Commission before resigning. Such resignation shall not become effective until the Court has appointed a successor. If the Chairman, Executive Director, or any Board member is removed by the Court, becomes incapacitated due to illness or death, is otherwise unable to serve, or resigns, the Court shall appoint a successor. The Commission shall recommend to the Court the name of any candidate for successor to the Chairman. The members or remaining members of the Board of Directors, as the case may be, shall recommend to the Court names of any candidate for successor Executive Director or successor Board member, after giving at least thirty days’ notice to the Commission of the recommended name.

Once the period of judicial oversight ends (see § VII below), the Commission shall appoint the Chairman as necessary.

In accordance with the terms of the Final Judgments, the Chairman, Executive Director, and members of the Board of Directors are precluded from pursuing any employment/consulting type relationship with any of the Defendants, their subsidiaries, or affiliates during the time of serving in that capacity, and for a period of one year after serving as Chairman of the Board without the Commission's prior written consent.

F. Officers

Officers of the newly formed entity will include the President, Secretary, and Treasurer. Any two or more offices may be held by the same person, except the offices of President and Secretary.

G. Advisory Committees

As the Board of the Entity works to narrow and define the vision and method for implementing a comprehensive program of investor education, it may, in its discretion, cause to be convened an Advisory Committee to assist in this process. This advisory committee may be composed of individuals with a variety of backgrounds in education, marketing, communication, or other areas likely to be of assistance to the Board. No member of the advisory committee shall be compensated for his services in this regard, except for reimbursement of previously authorized and reasonable travel expenses incurred in connection with Entity business.

The Board may, in its discretion, also seek assistance from the staff of the Commission to define its vision, review grant applications, or provide any other assistance deemed appropriate by the Board. No staff member shall be compensated for providing this service.

H. Staff

Proceeds from the Investor Education Fund will be used to compensate the Executive Director as well as sufficient staff necessary to oversee administration of the Plan, as the Board may deem necessary. The Executive Director shall have the responsibility for tracking all grant applications, conducting site visits as needed and, if an Advisory Committee for grant applications is established, forwarding to that Advisory Committee for review any applications meeting Plan criteria. The Executive Director will provide, along with any application forwarded to the Board, a brief summary of the project for which the application requests funds.

IV. Funding

Pursuant to the Final Judgments, on January 30, 2004 (the 90th day after the entry of the Final Judgments), the seven Defendants in question shall make the first of five annual investor education payments to the Federal Reserve Bank of New York ("FRB-NY"). The FRB-NY will maintain these funds in separate "Investor

Education Fund Accounts,” one for each of the seven Defendants. Upon Court approval of this Plan and following establishment of the Entity, the Executive Director will seek a judicial order allowing the funds in the Investor Education Fund Accounts to be transferred from the FRB-NY to an interest bearing account (the “Investor Education Fund”) set up by the Entity. The four remaining annual installments payable by the Defendants shall, in accordance with the terms of such an order, be paid directly into the Investor Education Fund.

The Board of Directors will have sole authority over investment decisions for the Investor Education Fund. The Board, however, may only invest Fund money in conservative instruments or interest bearing accounts.

V. Audit Procedures and Reporting Requirements

While the Fund is subject to Court review, the Executive Director shall file with the Court on a quarterly basis, with copies to the Commission’s Director of the Office of Investor Education and Assistance (“OIEA”), applications for payment of all fees, costs and expenses incurred during the preceding quarterly period that are to be paid from the Fund. These reports shall include all fees, costs, and expenses that have been incurred by the Chairman of the Board of Directors, the Board of Directors, and the Executive Director in connection with and incidental to the performance of their duties relating to the Fund, as well as the fees, costs, and expenses of any persons engaged to assist them, and that are to be paid from the Fund. At least thirty days before making each such application to the Court, the Executive Director shall submit the application to the Director of OIEA, and the Commission staff may advise the Court whether it has any objection.

After the Fund is no longer subject to Court oversight, the non-profit shall submit to the Director of OIEA a complete accounting of the fees, costs and expenses on a quarterly basis.

The Executive Director shall also submit written quarterly reports to the Court and the Director of OIEA providing detailed information on the progress of the implementation of the Plan (including a description of all grant applications received and all grants approved), fees and expenses incurred, and other matters relevant to the status of the Plan. The Entity shall maintain sufficient information about the grant administration to comply with Internal Revenue Service regulations and so as to be able to provide detailed tracking information to the Board, the Court, and the Director of OIEA as requested. After the period of Court supervision has ended, the Executive Director shall continue to submit such quarterly reports to the Director of OIEA. The Commission shall make the quarterly reports, both during and after the period of judicial oversight, publicly available.

An annual audit shall be performed by an independent third party. The Board of Directors will elect the auditor. The results of the audits will be provided to the Court

and the Director of OIEA. Once the judicial oversight period has expired, the annual audit results will be submitted to the Director of OIEA and made publicly available.

VI. Grants

A. Soliciting/Accepting Proposals

The Entity will post grant information and other information about the Plan on a website. The SEC will publicize and promote the existence of the Plan, together with the opening and closing dates for the application process, through appropriate links on its website and media announcements where appropriate.

The Entity will facilitate the process of soliciting and accepting proposals by:

- Soliciting grant proposals from entities that are qualified to carry out the Plan's mission;
- Accepting unsolicited grant proposals from entities for projects and programs that advance the mission of the Plan; and
- Conducting a survey of adult investors every two years if necessary to measure their level of financial literacy and measure the effectiveness of various methods of investor education.

B. Grant Guidelines

The Board of Directors will have sole authority to decide (i) what entities may receive grants from the Investor Education Fund; (ii) the amounts to be granted; and (iii) the terms and conditions to be imposed on any grants.

1. Eligible Applicants

The following persons and entities are *eligible* to apply for Investor Education grants:

- Non-profit organizations and educational institutions;
- State agencies, federal and local government units, and Indian tribes;
- Institutions of higher learning, including colleges, universities and graduate schools; and
- Other specific categories of entities that the Board may define as necessary in order to accomplish its objectives

The following persons and entities are specifically *ineligible* for Investor Education grants:

- Any member of the Board or its staff;
- Entities that discriminate on the basis of age, color, disability, marital status, national origin, race, religion, sex, sexual orientation, or veteran status;
- Former grant recipients who do not fulfill the terms of the previous grant;

- Entities or individuals designated as “disqualified persons” under the Internal Revenue Code; and
- Any other person or entity described in Section A.1 of the Investor Education Orders.

2. Acceptable Types of Proposals

After the Board has defined the mission and goals of the Entity, it will consider all geographic regions and ethnic groups and seek grant proposals from eligible applicants for projects and programs such as the following:

- Grass-roots and community-based education concerning investments and targeting adult investors;
- Work place investor education concerning issues relevant to investing and retirement;
- School and college based investor education;
- Academic research into techniques or programs most likely to successfully help Americans gain the skills and knowledge necessary to make informed investment decisions; and
- Programs that educate American investors about how to avoid fraudulent investments.

No money shall be awarded to projects or programs that:

- Directly and tangibly benefit any member of the Board or staff;
- Promote, directly or indirectly, the products or services of any single firm or entity;
- Are for unlawful or unethical purposes; or
- Are not for educational purposes.

Eligible applicants should follow the instructions below when submitting grant proposals. The Board will determine which projects or programs will receive grants. Submitting a proposal to the Plan does not guarantee that the Board will award a grant.

C. Grant Application Process

Applicants must submit proposals in writing. Each proposal must:

- 1) Articulate a goal falling within the acceptable types of proposals listed above;
- 2) Specify the target audience(s);
- 3) Explain in detail how the applicant will seek to reach that target audience;
- 4) Describe a comprehensive plan for assessing whether and how well the articulated goals have been achieved at strategic intervals, providing historical studies if available; and
- 5) Provide a detailed balance sheet of how the money would be allocated.

The deadline for submitting grant applications will be one month before each of the quarterly Board meetings. Grant applications received after the most recent deadline will be considered at the following Board meeting. The Bylaws of the Entity will determine the dates of the Board meetings. The Board will notify the applicant in writing if the project is approved for funding or not.

D. Amount and Terms

- There will be no minimum or maximum dollar amount set for Investor Education grants. The Board will consider whether the amount requested is commensurate with the activities proposed and is large enough to warrant administration of the grant.
- Grant awards will be disbursed after the decision is made and the grant agreement is signed.
- Unless otherwise specified, the grant term is one year, meaning that all funds must be used and all activities related to the grant must be completed within one year.
- The Board may consider entering into multiple-year commitments, paid in annual increments, for grant projects or programs that cannot be completed in a single year or in instances where a multiple-year commitment will enhance the project's or program's chances for ongoing success.
- The Board may make a counter-proposal for the amount or term of any grant.

E. Grant Agreement

Before accepting an award, grant applicants must sign a letter of agreement, outlining the terms of the grant, which may include agreeing to:

- Apply the funds strictly as proposed.
- Acknowledge the support provided by the Plan.
- Enable members of the Board and their staff to visit the organization and obtain any records or reports requested.
- Submit quarterly progress reports, including a comprehensive year-end report.
- Maintain records of expenditures.
- Return unused funds.
- Allow the Entity to publicize the grant.
- Waive all rights to bring suit against the Entity, the SEC, the NYSE, the NASD, any member of the Board or its staff connected with the decision making process, for any dispute arising out of the decision whether or not to award any grant.

VII. Court Oversight

As discussed above, it is contemplated that the Investor Education Entity will remain in existence for an indeterminate period. During the five-year period that the seven Defendants in question are making their Federal Investor Education Payments as

described in the Final Judgments and the Investor Education Orders, the Court in the Federal Actions will have oversight of the Entity. Under the Investor Education Orders, if the Entity is to remain in existence for an indeterminate period, this Plan is to provide for the cessation of the Court's oversight of the Entity as soon as practicable after the last of the Federal Investor Education Payments.

The Investor Education Orders and this Plan contain provisions designed to facilitate the appropriate cessation of the Court's oversight of the Entity and the Investor Education Fund. For example, the section above entitled "Audit Procedures and Reporting Requirements" calls for the Executive Director to continue to provide quarterly reports to the Commission regarding the Entity, its expenditures, and its activities and for the Commission to make such reports publicly available. After the Entity is operational and the Court and the Commission gain experience with the progress of the Entity's implementation of this Plan, it may be appropriate to have additional provisions to facilitate and effectuate the cessation of the Court's oversight of the Entity. Accordingly, within 90 days after the last of the Federal Investor Education Payments has been made, the Commission will submit a proposed order providing for the cessation of the Court's oversight of the Entity and setting forth appropriate terms for oversight of the Entity. The Court's oversight of the Entity will cease upon entry of the Commission's proposed order, as modified or unmodified; provided, however, that the Court will retain jurisdiction (and, accordingly, the Commission may petition the Court) to compel or otherwise ensure compliance with the terms of the Final Judgments, the Investor Education Orders, and this Plan.