

**Exhibit 2**  
**(proposed distribution plan)**

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

**SECURITIES AND EXCHANGE  
COMMISSION,**

**Plaintiff,**

**v.**

**LONGFIN CORP.,  
VENKATA S. MEENAVALLI,  
ANDY ALTAHAWI,  
SURESH TAMMINEEDI, and  
DORABABU PENUMARTHI**

**Defendants.**

**Case No.: 18-cv-2977-DLC**

**(Proposed) Plan of Distribution**

**Introduction**

1. On April 4, 2018, the U.S. Securities and Exchange Commission (the “SEC”) commenced the captioned action against Longfin Corp. (“Longfin”), Venkata S. Meenavalli, Amro Izzelden Altahwi, Suresh Tammineedi, and Dorababu Penumarthi (collectively, the “Defendants”). The SEC alleged that the Defendants raised over \$27 million through the unregistered distribution of Longfin securities in violation of Section 5 of the Securities Act of 1933 (“Securities Act”) [15 U.S.C. §77(e)], which prohibits such unregistered sales unless a specific exemption applies under the federal securities laws. *See* ECF No. 6.
2. The Court has since entered final judgments against all of the Defendants, ordering them, in the aggregate, to pay disgorgement of \$22,862,377.23 and civil penalties of \$3,582,941.97, for a total monetary liability of \$26,445,319.20. *See* ECF Nos. 100-102, 117-18. Of this amount, the Defendants have paid, approximately, \$26.1 million, which is deposited in an interest-bearing account at the U.S. Treasury’s Bureau of Fiscal Service (“BFS”). Each of the final judgments provides that the SEC may propose a plan to distribute the collected funds that may provide for distribution pursuant to the Fair Fund provisions of Section 308(a) of the Sarbanes-Oxley Act of 2002. *Id.*
3. By Order dated April 15, 2020, this Court established a Fair Fund pursuant to Section 308(a) of the Sarbanes-Oxley Act of 2002 (the “Fair Fund”), appointed Miller Kaplan Arase LLP as Tax Administrator (the “Tax Administrator”), appointed Epiq Class Action & Claims Solutions, Inc. as Distribution Agent (the “Distribution Agent”), and authorized the SEC to pay all tax obligations and administrative fees and expenses without further Court Order (the “Appointment Order”). ECF No. 125.

4. In accordance with the Final Judgment, this distribution plan (the “Plan”) was developed jointly by the Distribution Agent and the SEC in accordance with practices and procedures customary in Fair Fund administrations. The Plan governs the administration and distribution of the Fair Fund, and sets forth the method and procedures for distributing the assets of the Fair Fund to investors harmed by the conduct alleged in the Complaint.

### **Definitions**

5. In addition to words otherwise defined herein, the following definitions apply to the Plan:

a. “Administrative Costs” means any administrative costs and expenses, including without limitation the fees and expenses of the Tax Administrator and the Distribution Agent, tax obligations, and investment costs. All Administrative Costs will be paid by the Fair Fund.

b. “Claim Form” shall mean the form designed by the Distribution Agent and reviewed by SEC staff, for the filing of claims in accordance with the Plan. The Claim Form will require, at a minimum, sufficient documentation of transactions in the Security such that eligibility under the Plan can be determined, tax identification and related information from the Potential Claimant as determined necessary by the Distribution Agent in coordination with the Tax Administrator, and a certification that the Potential Claimant is not an Excluded Party. The Claim Form will alert Potential Claimants that information submitted in connection with the claims process may be shared with the Class Action in order to obviate the need for a second claims process.

c. “Claims Bar Date” shall mean the date established in accordance with the Plan by which Claim Forms must be postmarked or submitted electronically by in order to receive consideration under the Plan. Subject to certain extensions provided for in this Plan, the Claims Bar Date will be one hundred twenty (120) days from the initial mailing date of the Claims Packet.

d. “Claims Packet” shall mean the materials relevant to submitting a claim, provided to Potential Claimants, including Potential Claimants who request such materials through a website or otherwise prior to the Claims Bar Date. The Claims Packet will include, at minimum, a copy of the Plan Notice and a Claim Form (together with instructions for completion of the Claim Form). As indicated in ¶ 5.e., below, the Claims Packet may also include a notice from the Class Action in an effort to reduce costs and thereby increase funds available for distribution.

e. “Class Action” shall refer to the private litigation captioned *In re Longfin Corp. Securities Class Action Litigation*, 18-cv-02933 (DLC) (S.D.N.Y.). Although the Class Action and any distribution in the Class Action are separate from the captioned SEC action and any distribution in the SEC action, certain activities, such as mailings, may be combined in an effort to reduce costs and thereby increase funds available for distribution.

f. “Determination Notice” shall mean the notice sent by the Distribution Agent within ninety (90) days of the Claims Bar Date to all Potential Claimants that submitted a Claim Form. The Determination Notice will set forth the Distribution Agent’s determination of the eligibility of the claim (eligible, partially or wholly deficient, or ineligible) and the Eligible Loss Amount. The Determination Notice will provide to each Potential Claimant whose claim is deficient, in whole or in part, the reason(s) for the deficiency, notify the Potential Claimant of the opportunity to cure such deficiency, and provide instructions regarding further necessary actions. In the event the claim is denied, the Determination Notice will state the reason(s) for such denial and notify the Potential Claimant of their opportunity to request reconsideration of their claim.

g. “Distribution Payment” means the payment to an Eligible Claimant in accordance with the Plan.

h. “Eligible Claimant” means a Potential Claimant who is not an Excluded Party and who is determined by the Distribution Agent to be eligible under the Plan for a Distribution Payment.

i. “Eligible Loss Amount” means, for each Eligible Claimant, the aggregate of the Recognized Loss (or Gain) per Share as defined and calculated in accordance with ¶¶13-22.

j. “Excluded Parties” shall mean the following entities of individuals:

- i) Any director or officer, past or present, of Longfin or any of their past or present advisers, agents, affiliate (or any of the nominees, assigns, creditors, heirs, distributees, spouses, parents, children, or controlled entities of the foregoing) who served in such capacity during the Recovery Period;
- ii) The defendants in the captioned action and in *SEC v. Longfin Corp., et al.*, 19-CV-5296 (DLC) (S.D.N.Y.) (or any of such defendant’s advisers, agents, affiliates, nominees, assigns, creditors, heirs, distributees, spouses, parents, children, or controlled entities);
- iii) The Distribution Agent, its employees, and those persons assisting the Distribution Agent in its role as the Distribution Agent; and
- iv) Any purchaser or assignee of another Person’s purported right to obtain a recovery from the Fair Fund for value; provided, however, that this provision shall not be construed to exclude Third-Party Filers or those Persons who obtained such a right by gift, inheritance, devise or operation of law.

k. The “Fair Fund” is comprised of the approximately \$26.1 million collected in the captioned action. Additional collections; amounts directed to this Court for inclusion in

the Fair Fund by court order, agreement, or otherwise; and accrued interest and earnings will be added to the Fair Fund.

l. “Final Determination Notice” means the Distribution Agent’s written reply to each Potential Claimant who timely responded to the Determination Notice in an effort to cure a deficiency or seek reconsideration of a denied claim. The Final Determination Notice will constitute the Distribution Agent’s final ruling regarding the status of the claim.

m. “Methodology” refers to the allocation method used in the Plan to determine eligibility and determine Distribution Payments as set forth in ¶¶13-22, herein.

n. “Net Available Fair Fund” means the Fair Fund, plus accrued interest or earnings, less Administrative Costs.

o. “Person” means natural individuals as well as legal entities including, but not limited to, corporations, partnerships, limited liability companies, and governmental entities.

p. “Plan Notice” means the written notice from Distribution Agent to Potential Claimants informing them of the Fair Fund, the Plan and its eligibility requirements, explaining how to submit a claim, how to obtain a copy of the approved Plan and Claim Form by request or from the Fair Fund website, and alerting them that information submitted in connection with the claims process may be shared with the Class Action in order to obviate the need for a second claims process.

q. “Potential Claimant(s)” means individuals and entities, or their lawful successors, who purchased the Security during the Recovery Period.

r. “Recognized Loss (or Gain) Per Share” shall mean the amount of loss (or gain) per share of Longfin Class A common stock depending on when the share was acquired, sold, or if it was retained, as calculated pursuant to the Methodology.

s. “Recovery Period” means June 16, 2017 through April 6, 2018, inclusive.

t. “Security” means Longfin Class A common stock, traded on the NASDAQ under the trading symbol LFIN.

u. “Summary Notice” means the notice published in print or internet media that shall include, at a minimum, a statement of the purpose of the Fair Fund and the Plan, the means of obtaining a Claims Packet, and the Claims Bar Date.

v. “Third-Party Filer” means a third-party, including without limitation a nominee, custodian, or an intermediary holding in street name, who is authorized to, and submits, a claim(s) on behalf of one or more Potential Claimants. Third-Party Filer does not include assignees or purchasers of claims, which are excluded from receiving distribution payments. *See* ¶ 5.j.(iv) above.

### **The Distribution Agent**

6. The Distribution Agent will be responsible for administering the Fair Fund in accordance with the Plan and the Appointment Order.
7. To carry out the purposes of this Plan, the Distribution Agent is authorized to make and implement immaterial changes to the Plan upon agreement of the SEC staff. If a change is deemed to be material by SEC staff, Court approval is required prior to implementation by amending the Plan.
8. The Distribution Agent may extend any procedural deadline contained in the Plan for good cause shown, if agreed upon by the SEC staff.
9. The Distribution Agent is authorized to enter into agreements with institutions (“Institutions”) as may be appropriate or necessary in the administration of the Fair Fund, provided such Institutions are not excluded pursuant to other provisions of this Plan. In connection with such agreements, the Institutions shall be deemed to be agents of the Distribution Agent under this Plan. As set forth in the Appointment Order, the Distribution Agent will be entitled to payment from the Fair Fund of reasonable fees and expenses incurred in the performance of its duties (including any such fees and expenses incurred by agents, consultants or third parties retained by the Distribution Agent in furtherance of its duties).
10. The Distribution Agent will retain all claims materials in paper and electronic form, and all other distribution records in either (or both) form for a period of six (6) years from the date of submission of a final fund accounting to the Court, and will thereafter transfer the documents to the SEC if and as directed by the SEC staff. In addition, the Distribution Agent will shut down the website, P.O. Box and customer service telephone line(s) established specifically for the administration of the Fair Fund six (6) months after the closing of the Escrow and Deposit Accounts (defined below, ¶ 52), or at such earlier time as the Distribution Agent determines with concurrence of the SEC staff.

### **Tax Compliance**

11. The Fair Fund is a Qualified Settlement Fund (“QSF”) under Section 468B(g) of the Internal Revenue Code, 26 U.S.C. § 468B(g), as amended. The Tax Administrator is the administrator of such QSF for purposes of Treas. Reg. § 1.468B-2(k)(3)(I), and shall satisfy the tax related administrative requirements imposed by Treas. Regs. § 1.468B-1 to § 1.468B-5, as set forth in the Appointment Order.
12. Payment of tax obligations and tax related costs and expenses will be requested and made from the Fair Fund in accordance with the Appointment Order.

**Methodology**

13. For shares of the Security that were purchased during the Recovery Period, and:
  - (a) Sold on or before April 6, 2018, the Recognized Loss (or Gain) per Share is the purchase price less the sale price.
  - (b) Retained as of close of business on April 6, 2018, the Recognized Loss (or Gain) per Share is equal to the purchase price less \$4.55 (the closing price on May 25, 2018).
  
14. All prices mentioned in the calculations exclude all fees and commissions. Purchases and sales shall be deemed to have occurred on the “contract” or “trade” date as opposed to the “settlement” or “payment” date.
  
15. For each Potential Claimant who held shares of the Security as of the beginning of the Recovery Period or made multiple purchases or sales during the Recovery Period, the first-in, first-out (“FIFO”) method will be applied to such holdings, purchases and sales. Under the FIFO method, sales of shares during the Recovery Period will be matched, in chronological order, first against shares held at the beginning of the Recovery Period. The remaining sales of shares during the Recovery Period will then be matched, in chronological order, against shares purchased during the Recovery Period. The date of acquisition or sale is the “contract” or “trade” date as distinguished from the “settlement” date.
  
16. If the sale date for a share falls before the purchase date, then the share has a Recognized Loss per Share of \$0.00.
  
17. The receipt or grant to the Potential Claimant by gift, devise, inheritance, or operation of law of the Security during the Recovery Period is not considered an eligible purchase if the original purchase did not occur during the Recovery Period. Such shares will be excluded from the calculation of the Potential Claimant’s Eligible Loss Amount.
  
18. With respect to purchases or sales through the exercise of an option, the purchase/sale date of the Security is the exercise date of the call and the assignment date of the put, and the purchase/sale price is the price of the call at the time of exercise and the put at the time of assignment. Otherwise, transactions in the Security during the Relevant Period that are pursuant to, or in connection with, a swap, an option or other derivative will not be eligible for a recovery.
  
19. A Potential Claimant’s Eligible Loss Amount shall be determined by aggregating the Recognized Loss (or Gain) per Share for all transactions which occurred during the Recovery Period. An investor will be eligible to receive a distribution not to exceed the overall net loss, after all profits from transactions in the Security during the Recovery Period are subtracted from losses.

20. If a Potential Claimant's actual losses in the Security are less than the Eligible Loss Amount, then the Eligible Loss Amount shall be limited to the actual loss amount. With respect to shares of the Security purchased during the Recovery Period, Potential Claimants whose total proceeds from sales of those shares exceeded the total purchase amount for those shares shall have an Eligible Loss Amount of \$0.00. For shares purchased during the Recovery Period and held through the end of the Recovery Period, a value of \$4.55 will be applied as the holding value for the purpose of calculating loss or gain.

21. If the Net Available Fair Fund has sufficient funds, each Eligible Claimant will receive a Distribution Payment equal to the amount of his, her, or its Eligible Loss Amount. If the Net Available Fair Fund has funds in excess of that necessary to pay each Eligible Claimant a Distribution Payment equal to the amount of their Eligible Loss Amount, the Distribution Agent, in consultation with the SEC staff, may include in the Distribution Payments an additional amount to compensate each Eligible Claimant for the time value of their respective Eligible Loss Amount ("Reasonable Interest").<sup>1</sup> If the Net Available Fair Fund is not sufficient to pay the full Eligible Loss Amount for all Eligible Claimants, then each Eligible Claimant will receive a Distribution Payment equal to the Net Available Fair Fund multiplied by the ratio of their Eligible Loss Amount to the aggregate Eligible Loss Amounts of all Eligible Claimants.

22. If an Eligible Claimant's Distribution Payment is less than \$10.00 (the "*De Minimis* Amount"), that Eligible Claimant will not receive a Distribution Payment and the funds will be distributed to other Eligible Claimants whose Distribution Payments are greater than \$10.00.

#### **Identification of and Notice to Potential Claimants**

23. The Distribution Agent shall, as practicable, use its best efforts to identify Potential Claimants from a review of records obtained by the SEC, account information provided by the transfer agent for Longfin, registered broker-dealers, investment advisors, and any other commercially reasonable sources available to it.

24. Within forty-five (45) days of Court approval of the Plan, the Distribution Agent shall:

- a. create a mailing and claim database of all Potential Claimants based upon information identified by the Distribution Agent;
- b. design and submit a Claims Packet to the SEC staff for review and approval;
- c. mail a Claims Packet to each Potential Claimant identified by the Distribution Agent and to the Distribution Agent's list of banks, brokers, and other nominees in accordance with ¶ 28, below;

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<sup>1</sup> "Reasonable Interest" will be calculated using the short-term Applicable Federal Rate, compounded quarterly from the date of the loss through the approximate date of the disbursement of the Fair Fund.



- d. establish and maintain a website dedicated to the Fair Fund. The Fair Fund's website, located at [www.longfinfairfund.com](http://www.longfinfairfund.com), will make available in downloadable form the approved Plan, components of the Claims Packet, and related materials, and such other information that the Distribution Agent believes will be beneficial to Potential Claimants;
  - e. establish and maintain a traditional mailing address and an email mailing address which will be listed on all correspondence from the Distribution Agent to Potential Claimants as well as on the Fair Fund's website; and
  - f. establish and maintain a toll-free telephone number for Potential Claimants to call and speak to a live representative of the Distribution Agent during its regular business hours or, outside of such hours, to hear pre-recorded information about the Fair Fund.
25. The Summary Notice will be published in print or internet media acceptable to the SEC staff once a week for three consecutive weeks starting within five (5) days of the initial mailing of Claims Packets to Potential Claimants.
26. The SEC staff retains the right to review and approve any material posted on the Fair Fund's website, any material mailed, and any scripts used in connection with communication with Potential Claimants.
27. The Distribution Agent will promptly provide a Claims Packet to any Potential Claimant upon request made via mail, phone, or email prior to the Claims Bar Date.
28. The Distribution Agent will mail a Claims Packet to the Distribution Agent's list of banks, brokers, and other nominees, as well as any other institutions identified during the outreach process that may have records of purchasers of the Security during the Recovery Period. The Distribution Agent will request that these entities, to the extent that they were record holders for beneficial owners of the Security:
- a. notify the respective beneficial owners within fourteen (14) days of receipt of the Claims Packet so that beneficial owners may timely file a claim. The burden will be on the record holders to ensure the Claim Packets and other relevant materials are properly disseminated to their customers; and/or
  - b. provide to the Distribution Agent within fourteen (14) days of receipt a list of last known names and addresses for all beneficial owners for whom the record holders purchased the Security during the Recovery Period so that the Distribution Agent can communicate with them directly.
29. Before commencing any mailing, the Distribution Agent shall run a National Change of Address search to retrieve updated U.S. addresses for all Potential Claimants recorded in the database.

30. The Distribution Agent shall attempt to locate anyone whose Claims Packet has been returned by the United States Postal Service (“USPS”) as undeliverable. The Distribution Agent shall immediately re-mail any returned undelivered mail for which the USPS has provided a forwarding address.

31. The Distribution Agent, with SEC staff approval, may engage a third-party search firm to conduct more rigorous searches for persons whose Claims Packet is returned as undeliverable. The Distribution Agent will utilize all means reasonably available, including LexisNexis, to obtain updated addresses in response to undeliverable notices, and forward any returned mail for which an updated address is provided or obtained. The Distribution Agent will make available, upon request by the SEC staff, a list of all Potential Claimants whose Claims Packets have been returned as “undeliverable” due to incorrect addresses and for which the Distribution Agent has been unable to locate current addresses.

### **Claims Process**

32. In all materials that refer to the Claims Bar Date, the filing deadline will be clearly identified with the date, which is one hundred twenty (120) days from the initial mailing date of the Claims Packet.

33. To avoid being barred from asserting a claim, on or before the Claims Bar Date, each Potential Claimant must submit to the Distribution Agent a properly completed Claim Form reflecting such Potential Claimant’s claim, and it must be accompanied by such documentary evidence as the Distribution Agent deems necessary or appropriate to substantiate the claim. Without limitation, this information may include third-party documentary evidence of purchases and dispositions of the Security, as well as holdings of the Security, at relevant dates.

34. The burden to prove timely receipt of a claim by the Distribution Agent will be upon the Potential Claimant; therefore Potential Claimants will be instructed to submit their Claim Forms in a manner that will enable them to prove timely receipt of the Claim Form by the Distribution Agent. A Claim Form that is postmarked, or otherwise received by the Distribution Agent, after the Claims Bar Date will not be accepted unless the deadline is extended by the Distribution Agent for good cause shown, after consultation with the SEC staff.

35. The Distribution Agent shall review each claim and determine the eligibility of each Potential Claimant to participate in the Fair Fund by reviewing claim data and supporting documentation (or lack thereof), verifying the claim, and calculating each Potential Claimant’s loss pursuant to the Plan.

36. Each Potential Claimant will have the burden of proof to establish the validity and amount of his or her claim, and that they qualify as an Eligible Claimant, including the burden to certify that they are not an Excluded Party. The Distribution Agent will have the right to request, and the Potential Claimant will have the burden to promptly provide to the

Distribution Agent, any additional information and/or documentation deemed relevant by the Distribution Agent.

37. All claims and supporting documentation necessary to determine a Potential Claimant's eligibility to receive a distribution from the Fair Fund under the terms of the Plan must be verified by a declaration executed by the Potential Claimant under penalty of perjury under the laws of the United States. The declaration must be executed by the Potential Claimant, unless the Distribution Agent accepts such declaration from someone authorized to act on the Potential Claimant's behalf, whose authority is supported by such documentary evidence as the Distribution Agent deems necessary.

38. Electronic claims submission is encouraged; the Claims Packet will include directions on how Potential Claimants can submit their claims electronically via the Fair Fund website. If using the web-based claim filing option, a Potential Claimant must submit their claim to the Distribution Agent by 11:59 p.m. on the Claims Bar Date. The Claims Packet will also include directions for submission of claims if the Potential Claimant is unable to submit their claim electronically. All claims must be received by the Distribution Agent on or before the Claims Bar Date.

39. When submitting claims to the Fair Fund on behalf of its clients, all Third-Party Filers must use the electronic filing template provided by the Distribution Agent in this matter. Files that do not comply with the template and format provided by the Distribution Agent may be rejected. Third-Party Filers must also submit a signed master proof of claim and release, as well as proof of authority to file on behalf of the claimant(s) at the time the electronic file of transactions is submitted. Failure to do so may result in rejection of the claim(s).

40. Each Third-Party Filer must establish the validity and amount of each claim in its submission. Like all other Potential Claimants, Third-Party Filers must submit such supporting documentary evidence of purchases, dispositions, and holdings of Eligible Securities as the Distribution Agent deems necessary or appropriate to substantiate each individual claim. Without limitation, this includes the complete name of the Potential Claimant (beneficial account owner) and its TIN (for individuals) or EIN (for companies), sufficient contact information to confirm the identity of the beneficial owner, and documentation from the original bank, broker or other institution of purchases and dispositions of Eligible Securities (account statements, confirmations and other documentation of purchases and dispositions), as well as holdings of the Security on pertinent dates. Documentation generated by the Third-Party Filer as well as affidavits in lieu of supporting documentation, will not be accepted unless, for good cause, the Distribution Agent determines it acceptable. The Distribution Agent will have the right to request, and the Third-Party Filer will have the burden of providing to the Distribution Agent, any additional information and/or documentation deemed necessary by the Distribution Agent to substantiate the claim(s) contained in the submission. Documentation from a Third-Party Filer that is not acceptable to the Distribution Agent will result in rejection of the affected claim(s). The determination of the Distribution Agent to reject a claim for insufficient documentation, as reflected on the Final Determination Notice, is final and within the discretion of the Distribution Agent.

41. Distribution Payments must be made by check or electronic payment payable to the Potential Claimant (beneficial account owner). The Third-Party Filer shall not be the payee of any Distribution Payment check or electronic Distribution Payment. Subject to ¶ 65 below (ERISA Plans), any other payment arrangement must be discussed with the Distribution Agent in consultation with the SEC staff and must be authorized by the Potential Claimant. Compensation to the Third-Party Filer for its services may not be paid or deducted from the Distribution Payment.

42. If, after discussion with the Distribution Agent in consultation with the SEC, and authorization by the Potential Claimant(s), a Distribution Payment is to be made to a Third-Party Filer to distribute to the Potential Claimant(s), the Third-Party Filer will be required to complete a certification, which will require them, at a minimum, to attest that any distribution to the custodian, trustee, or investment professional representing multiple potentially eligible beneficial owners, will be allocated for the benefit of current or former pooled investors and not for the benefit of management. The certification form will be available on the Fair Fund website and upon request from the Distribution Agent. All such Third-Party Filers must have an auditable mechanism available to the Distribution Agent and the SEC staff to confirm that each Potential Claimant, if determined an Eligible Claimant, received the Distribution Payment directed to them.

43. The receipt of the Security by gift, inheritance, devise, or by operation of law will not be deemed to be a purchase of the Security, nor will it be deemed an assignment of any claim relating to the purchase of the Security unless specifically so provided in the instrument of inheritance. However, the recipient of the Security as a gift, inheritance, devise or by operation of law will be eligible to file a Claim Form and participate in the distribution of the Fair Fund to the extent the original purchaser would have been eligible under the terms of the Plan. Only one claim may be submitted with regard to the same transactions in the Security, and in cases where multiple claims are filed by the donor and donee, the donee claim will be honored, assuming it is supported by proper documentation.

44. The Distribution Agent will provide a Determination Notice within ninety (90) days of the Claims Bar Date to each Potential Claimant who has filed a Claim Form with the Distribution Agent, setting forth the Distribution Agent's conclusions concerning such claim. The Determination Notice will provide to each Potential Claimant whose claim is deficient, in whole or in part, the reason(s) for the deficiency (*e.g.*, failure to provide required information or documentation). The Determination Notice will also notify the Potential Claimant of the opportunity to cure such deficiency, and provide instructions regarding what is required to do so.

45. Any Potential Claimant with a deficient claim will have thirty (30) days from the date of the Determination Notice to cure any deficiencies identified in the Determination Notice.

46. In the event the claim is denied, in whole or in part, the Determination Notice will state the reason for such denial. Any Potential Claimant seeking reconsideration of a denied claim must advise the Distribution Agent in writing within thirty (30) days of the date of the Determination Notice. All requests for reconsideration must include the necessary

documentation to substantiate the basis upon which the Potential Claimant is requesting reconsideration of their claim.

47. The Distribution Agent will send, as appropriate, a Final Determination Notice to all Potential Claimants who responded to the Determination Notice in an effort to cure a deficiency or to seek reconsideration of a rejected claim. The Distribution Agent will send such Final Determination Notices by no later than sixty (60) days following receipt of documentation or information in response to the Determination Notice, or such longer time as the Distribution Agent determines is necessary for a proper determination concerning the claim.

48. The Distribution Agent may consider disputes of any nature presented by Potential Claimants, and will consult the SEC staff as appropriate. The Distribution Agent will have the authority to waive technical claim deficiencies and approve claims on a case-by-case basis, or in groups of claims. All determinations made by the Distribution Agent in accordance with the Plan in any dispute, request for reconsideration, or request to cure a deficient claim will be final and not subject to appeal.

49. Any Eligible Claimant who relocates or otherwise changes contact information after receipt of the Claims Packet must promptly communicate any change in address or contact information to the Distribution Agent.

### **Third-Party Review**

50. After the Distribution Agent has completed the process of analyzing the claims and determining claim amounts in accordance with the Plan, and prior to the distribution of any funds, the Distribution Agent will engage an independent, third-party firm, not unacceptable to SEC staff, to perform a set of agreed upon procedures, review a statistically significant sample of claims and ensure accurate and comprehensive application of the Methodology. The Distribution Agent will communicate the results of the review to SEC staff together with any written analysis or reports related to the review, and, upon request, will make the firm available to the SEC staff to respond to questions concerning the review.

### **Procedures for Distribution of the Net Available Fair Fund**

51. Prior to the disbursement of the Net Available Fair Fund, the Distribution Agent will establish account(s) described in the following paragraph at a United States commercial bank (the “Bank”), not unacceptable to the SEC staff.

52. The Distribution Agent shall establish an escrow account (“Escrow Account”) pursuant to an escrow agreement (the “Escrow Agreement”) to be provided by SEC staff, in the name of and bearing the Employer Identification Number of the QSF. The Distribution Agent shall also establish with the Bank a separate deposit account (the “Deposit Account”) (e.g. controlled distribution account, managed distribution account, linked checking and investment account) for the purpose of funding Distribution Payments to be distributed to Eligible Claimants by the Distribution Agent pursuant to the Plan. The name of each

account shall be in the following form: “Longfin Fair Fund (EIN XX-XXXXXXX), as custodian for the benefit of investors allocated a distribution pursuant to the Plan in *SEC v. Longfin, et al.*, Case No. 18-CV-2977 (DLC) (S.D.N.Y.).”

53. During the term of the Escrow Agreement, if invested, the Escrow Account shall be invested and reinvested in short-term U.S. Treasury securities backed by the full faith and credit of the United States Government or an agency thereof, of a type and term necessary to meet the cash liquidity requirements for payments to Eligible Claimants and tax obligations, including investment or reinvestment in a bank account insured by the Federal Deposit Insurance Corporation (“FDIC”) up to the guaranteed FDIC limit, or in money market mutual funds registered under the Investment Company Act of 1940 that invest 100% of their assets in direct obligations of the United States Government.

54. The Distribution Agent shall distribute the Net Available Fair Fund to all Eligible Claimants only after all timely submitted Proof of Claim Forms have been processed and all Potential Claimants whose claims have been denied or disallowed, in whole or in part, have been notified and provided the opportunity to cure pursuant to the procedures set forth above.

55. The Distribution Agent, in consultation with the Tax Administrator and the SEC staff, shall determine the Net Available Fair Fund by retaining a prudent reserve to Administrative Costs. After all distributions and payment of all tax obligations, any remaining amounts in the reserve will become part of the residual described in ¶73.

56. Within seventy-five (75) days following the date of the Final Determination Notices described above, ¶47, the Distribution Agent shall compile and send to the SEC staff the payee information, including the names, addresses, and Distribution Payments of all Eligible Claimants (“Payee List”). The Distribution Agent will simultaneously provide a “Reasonable Assurances Letter” to the SEC staff, representing that the Payee List: (a) was compiled in accordance with the Plan; (b) is accurate as to Eligible Claimants’ names, address, and Eligible Loss Amount; and (c) provides all information necessary to make a payment equal to the amount of the applicable Distribution Payment for such Eligible Claimant.

57. Upon receipt and review of the validated Payee List and Reasonable Assurances Letter, the SEC staff will petition the Court for authority to disburse the entire balance of the Net Available Fair Fund from the SEC to the Distribution Agent for distribution to Eligible Claimants pursuant to the Plan. In conjunction with the motion seeking transfer of the Net Available Fair Fund to the Distribution Agent for distribution, the Payment File shall, upon request, be made available to the Court under seal.

58. Following the Court’s approval of the SEC’s motion for the authority to distribute the Net Available Fair Fund to Eligible Claimants as provided for in this Plan, the Distribution Agent shall use its best efforts to commence mailing Distribution Payment checks or effect wire transfers within fifteen (15) business days of the transfer of the funds

into the Escrow Account. All efforts will be coordinated to limit the time between the Escrow Account's receipt of the funds and the issuance of Distribution Payments.

59. The Distribution Agent shall provide duplicate original bank and/or investment statements on any accounts established by the Distribution Agent to the Tax Administrator on a monthly basis and shall assist the Tax Administrator in obtaining mid-cycle statements, as necessary.

60. The Distribution Agent shall deposit or invest funds in the Escrow and Deposit Accounts so as to result in the maximum return, taking into account the safety of such deposits or investments. In consultation with SEC staff, the Distribution Agent shall work with the Bank on an ongoing basis to determine an allocation of funds between the Escrow and the Deposit Accounts.

61. All interest earned will accrue for the benefit of the Fair Fund and all costs associated with the Escrow and Deposit Accounts will be paid by the Fair Fund.

62. All funds shall remain in the Escrow Account, separate from bank assets, pursuant to the Escrow Agreement until needed to satisfy a presented check. All Fair Fund checks presented for payment or electronic transfer will be subject to "positive pay" controls before being honored by the Bank, at which time funds will be transferred from the Escrow Account to the Deposit Account to pay the approved checks.

63. All checks issued to Eligible Claimants by the Distribution Agent shall bear a stale date of one hundred twenty (120) days. Checks that are not negotiated before the stale date shall be voided and the issuing financial institution shall be instructed to stop payment on those checks. Such Eligible Claimant's claim is extinguished as of the stale date and the funds will remain in the Net Available Fair Fund. If a check reissue has been requested before the stale date, such request is governed by the following section.

64. Electronic or wire transfers may be utilized at the discretion of the Distribution Agent to transfer approved Distribution Payments. For any electronic payment, the exact amount necessary to make a payment shall be transferred from the Escrow Account directly to the payee bank account in accordance with written instruction provided to the Escrow Bank by the Distribution Agent. All wire transfers will be initiated by the Distribution Agent using a two-party check and balance system, whereby completion of a wire transfer will require authorization by two members of the Distribution Agent's senior staff.

65. Claims on behalf of a retirement plan covered by Section 3(3) of ERISA, 29 U.S.C. § 1002(3), which do not include individual retirement accounts, and such plan's participants, are properly made by the administrator, custodian or fiduciary of the plan and not by the plan's participants. The Distribution Agent will issue any payments on such claims directly to the administrator, custodian or fiduciary of the retirement plan. The custodian or fiduciary of the retirement plan will distribute any payments received in a manner consistent with its fiduciary duties and the governing account or plan provisions. With respect to any retirement plan that has been closed prior to the Distribution Agent's identification of

Potential Claimants, the Distribution Agent will endeavor to distribute funds directly to the beneficial account owner of such retirement plans if the information required for such a distribution is known to or provided to the Distribution Agent.

66. All Distribution Payments shall be preceded or accompanied by a communication that will include, as appropriate: (a) a statement characterizing the distribution; (b) a statement from the Tax Administrator regarding the tax consequences of Distribution Payments and informing Eligible Claimants that the tax treatment of the distribution is the responsibility of each recipient and that the recipient should consult their tax advisor for advice regarding the tax treatment of the distribution; (c) a statement that checks will be void after one hundred twenty (120) days; and (d) providing contact information for the Distribution Agent, to be used in the event of any questions regarding the distribution. All such communications shall be submitted to the SEC staff and the Tax Administrator for review and approval. Distribution Payments on their face or the accompanying mailbag, shall clearly indicate that the money is being distributed from a Fair Fund established by the Court for the benefit of investors for harm as a result of securities law violations.

#### **Uncashed Checks and Reissues**

67. The Distribution Agent will work with the Bank and maintain information about uncashed checks, returned payments, any returned items due to non-delivery, insufficient addresses, and/or other deficiencies. The Distribution Agent is responsible for researching and reconciling errors and reissuing payments when possible and for maintaining a record of such efforts. The Distribution Agent is also responsible for accounting for all payments. The amount of all uncashed payments will continue to be held in the Fair Fund.

68. The Distribution Agent shall use its best efforts to make use of reasonable commercially available resources and other reasonably appropriate means to locate all Eligible Claimants whose checks are returned to the Distribution Agent as undeliverable by the USPS.

69. Where new address information becomes available, the Distribution Agent shall repackage the distribution check and send it to the new address. Where new address information is not available after a diligent search (and in no event later than one hundred twenty (120) days after the initial mailing of the original check) or if the distribution check is returned again, the check shall be voided and the Distribution Agent shall instruct the issuing financial institution to stop payment on such check. If the Distribution Agent, despite best practicable efforts, is unable to find an Eligible Claimant's correct address, the Distribution Agent, in its discretion, may remove such Eligible Claimant from the distribution and the allocated Distribution Payment will remain in the Net Available Fair Fund for distribution, if practicable, to the remaining Eligible Claimants.

70. The Distribution Agent will re-issue new checks to Eligible Claimants upon the receipt of a valid, written request from the Eligible Claimants prior to the initial stale date. Such reissued checks will be void if not negotiated by sixty (60) days after issuance.



71. In cases where an Eligible Claimant is unable to endorse a Distribution Payment (e.g., as the result of a name change because of marriage or divorce, or as the result of death), any request by an Eligible Claimant or a lawful representative for reissuance of a Distribution Payment in a different name must be documented to the satisfaction of the Distribution Agent. If, in the sole discretion of the Distribution Agent, such change is properly documented, the Distribution Agent will issue an appropriately redrawn Distribution Payment, subject to the time limits detailed herein.

72. The Distribution Agent will make reasonable efforts to contact Eligible Claimants to follow-up on the status of uncashed Distribution Payments (other than those returned as “undeliverable”) and take appropriate action to follow up on the status of uncashed checks at the request of SEC staff. The Distribution Agent may reissue such checks, subject to the time limits detailed herein.

### **Disposition of Remaining Funds after Distribution**

73. A residual within the Fair Fund will be established for any amounts remaining after all assets have been disbursed. The residual may include, among other things, funds reserved for future taxes and for post-distribution contingencies, amounts from Distribution Payment checks that have not been cashed, amounts from Distribution Payment checks that were not delivered or accepted upon delivery, and tax refunds.

74. The Distribution Agent, in consultation with SEC staff, may distribute any residual funds to (a) Eligible Claimants, if any, who filed claims with the Distribution Agent after the Claims Bar Date or who were late in curing a denied claim in accordance with the Plan and, if feasible, (b) on a *pro rata* basis to all Eligible Claimants that negotiated the checks issued in the immediately preceding distribution or that received electronic payments, up to their Eligible Loss Amount and subject to the *De Minimis Amount*. If, after the distribution is complete and all Administrative Costs have been paid, funds remain in the Fair Fund, and the Distribution Agent, in consultation with the SEC staff, has determined further distributions to be unfeasible, those funds shall be paid to the SEC for transfer to the general fund of the U.S. Treasury subject to Section 21F(g)(3) of the Exchange Act.<sup>2</sup>

### **Fair Fund Reporting and Accounting**

75. The Distribution Agent will provide reports in accordance with the Appointment Order, including, in consultation with the Tax Administrator, a final accounting and final report.

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<sup>2</sup> Section 21F(g)(3) of the Exchange Act, 15 U.S.C. § 78u-6(g)(3), provides, in relevant part, that any monetary sanction of \$200 million or less collected by the SEC in any judicial action brought by the SEC under the securities laws that is not added to a disgorgement fund or fair fund or otherwise distributed to victims, plus investment income, shall be deposited or credited into the SEC Investor Protection Fund.

**Termination of the Fair Fund**

76. Once all Distribution Payments have been negotiated or voided, any funds remaining in the Escrow and Deposit Accounts will be transferred to the SEC.

77. The SEC staff will seek an Order from the Court, as appropriate, approving the final accounting, discharging the Distribution Agent, and terminating the Fair Fund.

78. The Fair Fund will be eligible for termination and the Distribution Agent will be eligible for discharge after all of the following have occurred:

- a. A final report and accounting has been submitted to and approved by the Court;
- b. All Administrative Costs have been paid; and
- c. All remaining funds have been transferred to the SEC for transfer to the U.S. Treasury subject to Section 21F(g)(3) of the Exchange Act.

79. Once the Fair Fund has been terminated, no further claims will be allowed and no additional payments will be made whatsoever.

**Miscellaneous**

80. The Court reserves the right to amend this Plan from time to time, and retains exclusive jurisdiction over all claims arising in connection with this Plan, including, but not limited to, claims against the Distribution Agent or Tax Administrator asserting liability for violation of any duty imposed by this Plan or other Court order.

81. The Distribution Agent and the Tax Administrator are entitled to rely on all outstanding rules of law and Court orders.

82. The submission of the Claim Form and the receipt and acceptance of a distribution by an Eligible Claimant will not affect an Eligible Claimant's rights and claims as against any defendant to this action or their past or present directors, officers, employees, affiliates, nominees, creditors, advisors and agents.