

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

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

CKB168 HOLDINGS LTD., ET AL.,

Defendants,

- and-

ROSANNA LS I C., ET AL.

Relief Defendants.

**CIVIL ACTION NO.
1:13-cv-05584-RRM-RLM**

DISTRIBUTION PLAN

I. OVERVIEW

1. This Distribution Plan (“Distribution Plan or Plan”) sets forth the methods and procedures for distributing the monies collected in the above-captioned matter (“Fair Fund”). The Plan seeks to compensate investors who were harmed by the conduct described in the Complaint (Dkt.#1). As calculated using the distribution methodology detailed in the Plan of Allocation (attached as Exhibit A) investors will be compensated for their losses resulting from their investment in CKB. Based on this methodology, it is anticipated that the Fair Fund will be distributed in one or more tranches.

II. BACKGROUND

2. On October 9, 2013, the Commission filed a Complaint against CKB168 Holdings Ltd.(“CKB”), WIN168 Biz Solutions Ltd. (“WIN”), CKB168 Ltd. (“CKB168”), CKB168 Biz Solution, Inc. (“Biz Solution”), Cyber Kids Best Education Ltd.(“Cyber Kids”),

Rayla Melcher Santos (“Santos”), Hung Wai Shern (“Shern”), Rui Ling Leung (“Leung”), Daliang Guo (“Guo”), Yao Lin (“Lin”), Chih Hsuan Lin (“Kiki Lin”), Wen Chen Hwang (a/k/a “Wendy Lee”) (“Wendy Lee”), Toni Tong Chen (“Chen”), Cheongwha Chang (“Chang”), Joan Congyi Ma (Ma”), and Heidi Mao Liu (“Liu”) (collectively, “Defendants”), and Rosanna LS Inc. (“Rosanna”), USA Trade Group, Inc. (“USA Trade”), Ouni International Trading, Inc. (“Ouni”), E Stock Club Corp. (“E Stock”), EZ Stock Club Corp. (“EZ Stock”), HTC Consulting LLC (“HTC”), and Arcadia Business Consulting, Inc. (“Arcadia”) (collectively, “Relief Defendants”).

The Complaint alleged that, from March 2011 through October 2013, the Defendants violated antifraud and registration provisions of the federal securities laws by orchestrating and promoting a pyramid scheme and offering fraud. The pyramid scheme and offering fraud primarily targeted members of the Asian-American community. Defendants falsely portrayed CKB as a profitable multi-level marketing company that sells web-based children's educational courses. What CKB really sold, however, was the false promise of easy wealth. Potential purchasers of CKB products were required to invest in CKB to get one of its courses.

Defendants promised that those investors would earn exponential, risk-free returns. The corporate defendants- WIN168 Biz Solutions Ltd., CKB168 Ltd., CKB168 Holdings, Ltd., CKB 168 Biz Solution Inc., and Cyber Kids Best Education Limited are five entities based in Hong Kong, Canada, and the British Virgin Islands that collectively operate under the business name "CKB168" or "CKB." The individual defendants are three foreign nationals- Rayla Melchor Santos, Hung Wai (Howard) Shern, and Rui Ling (Florence) Leung (aka Kwai Chee Leung)- who control the CKB entities and eight senior promoters in the United States -Daliang (David) Guo, Yao Lin, Chih Hsuan (Kiki) Lin, Wen Chen Hwang (aka Wendy Lee), Toni Tong Chen,

Cheongwha (Heywood) Chang, Joan Congyi (JC) Ma, and Heidi Mao Liu (aka Heidi Mao)- who sit atop the pyramid scheme in the United States.

3. On June 29, 2016, Chen, Chang, HTC, and Arcadia were ordered to pay a total of \$2,101,949.81 in disgorgement and prejudgment interest. The Commission was ordered to hold all funds, together with interest and income earned thereon, pending further order of the Court.

4. On September 27, 2017, the Court entered a judgment against Wendy Lee, E. Stock, and EZ Stock ordering them to pay a total of \$2,117,141.00 in disgorgement. The amount of civil penalty to be assessed against Wendy Lee remains unresolved.

5. Also on September 27, 2017, the Court entered a judgment against Kiki Lin and USA Trade ordering them to pay a total of \$3,640,348.00 in disgorgement and prejudgment interest. The amount of civil penalty to be assessed against Kiki Lin remains unresolved.

6. On December 28, 2021, this Court entered a judgment against Heidi Mao Liu to pay \$449,729 in disgorgement and \$335,000 in civil penalty.

7. Litigation is still pending for the remaining parties. To date, the following funds have been collected, which comprise the Fair Fund: (a) \$1,041,773 from Chen, Chang, HTC, and Arcadia (of which approximately \$647,704 are from frozen funds); (b) \$2,117,402 from Hwang, E Stock Club Corp., and EZ Stock Club Corp. (of which approximately \$1,065,321 are from frozen funds); (c) \$784,754 was obtained from frozen funds of Heidi Mao Liu as a result of a final judgment obtained against her on December 28, 2021 (Dkt. #455).¹

8. The Fair Fund of approximately \$4 million is comprised of the following: approximately \$3.1 million invested in an interest-bearing account at the United States Department of Treasury's Bureau of the Fiscal Service, approximately \$133,310 in interest income, and cash

¹ The SEC has a pending Motion for Entry of Judgment under Rule 54(b) Against Santos and Non-Settling Defendants except Heidi Mao (Dkt. #450-1).

of approximately \$785,286. Any additional funds ordered and collected will be added to the Distribution Fund for the benefit of harmed investors.

9. The current balance of the Fair Fund, including accrued interest, as of January 24, 2022 is approximately \$4 million.

10. On March 1, 2019, the Court entered an order granting the Commission's motion to appoint Miller Kaplan Arase LLP as the Tax Administrator (the "Tax Administrator") of the fund (Dkt.#419).

11. On March 1, 2019, the Court entered an order granting the Commission's motion to appoint Analytics Consulting LLC as the Distribution Agent (the "Distribution Agent") of the fund (Dkt.#420).

III. DEFINITIONS

As used herein, the following definitions shall apply:

12. **"Administrative Costs"** shall mean any administrative costs and expenses, including without limitation the fees and expenses of the Tax Administrator and Distribution Agent, tax obligations, and investment and banking costs.

13. **"Claim Form"** means the form designed by the Distribution Agent, in consultation with the SEC staff, for the filing of claims in accordance with this Plan. The claim form will require, at a minimum, sufficient documentation so that eligibility under the Plan can be determined, tax identification and other related information from the Preliminary Claimant as determined necessary by the Distribution Agent in coordination with the Tax Administrator, and a certification that the Preliminary Claimant is not an Excluded Party. Information in the Claim Form shall be present in English and both traditional and simplified Chinese.

14. **“Claim Status Notice”** means the notice sent by the Distribution Agent within ninety (90) days of the Claims Bar Date to all Preliminary Claimants that submitted a Claim Form. The Claim Status Notice will set forth the Distribution Agent’s determination of the eligibility of the claim (eligible, partially or wholly deficient, or ineligible). The Claim Status Notice will provide to each Preliminary Claimant whose claim is deficient, in whole or in part, the reason(s) for the deficiency and in the event the claim is denied, the Claim Status Notice will state the reason(s) for such denial. The Claim Status Notice will also notify the Preliminary Claimant of the opportunity to cure such deficiency, request reconsideration, or dispute the determination made by the Distribution Agent and provide instructions regarding what is required to do so. Information in the Claim Status Notice shall be present in English and both traditional and simplified Chinese.

15. **“Claims Bar Date”** means the date established in accordance with this Plan by which a Preliminary Claimant’s Claim Forms must be postmarked or submitted electronically in order to receive consideration under the Plan. Subject to certain extensions provided for in this Plan, the Claims Bar Date shall be one hundred twenty (120) days after the initial mailing of the Claims Packet. Claim Forms received after the Claims Bar Date will not be accepted unless the Distribution Agent is directed to do so by the SEC staff.

16. **“Claims Packet”** means the materials relevant to submitting a claim that will be provided to Preliminary Claimants known to the Distribution Agent or to those who request such materials through a website or otherwise prior to the Claims Bar Date. The Claims Packet will include, at a minimum, a copy of the Plan Notice and a Claim Form (together with instructions for completion of the Claim Form). Information in the Claims Packet shall be present in English and both traditional and simplified Chinese.

17. **“Distribution Payment”** means a payment from the Fair Fund to a Payee in accordance with the terms of this Plan.

18. **“Eligible Claimant”** means a Preliminary Claimant who submitted a valid claim, who may have suffered a loss as a result of investing in CKB, pursuant to the Plan of Allocation, and who is not an Excluded Party.

19. **“Excluded Parties”** shall mean:

- (a) The Defendants;
- (b) Present or former officers or directors of Defendants and any assigns, creditors, heirs, distributees, spouses, parents, dependent children or controlled entities of any of the foregoing persons or entities;
- (c) Any employee or former employee of the Defendants or any of its affiliates who has been terminated for cause or has otherwise resigned, in connections with the conduct detailed in the Complaint;
- (d) Any Person who, as of the Claims Bar Date, has been the subject of criminal charges related to the conduct detailed in the Complaint in this action or any related Commission action;
- (e) Any firm, trust, corporation, officer or other entity in which any of the Defendants have or had a controlling interest;
- (f) Any non-US Person, as defined below, except for Persons residing in a jurisdiction from which the SEC is able to enforce a monetary judgment and collect monies toward the Fair Fund.
- (g) Any purchaser or assignee of another Person’s right to obtain a recovery from the Fair Fund for value; provided, however, that this provision shall

not be construed to exclude those Persons who obtained such a right by gift, inheritance, or devise; or

- (h) The Distribution Agent, its employees, and those Persons assisting the Distribution Agent in its role as the Distribution Agent.

The Claim Form will require claimants to certify that they are not an Excluded Party.

20. “**Fair Fund**” refers to the fund comprised of the disgorgement, prejudgment interest, and civil penalty collected from the Defendants and Relief Defendants in compliance with the Final Judgments in this case and any additions thereto as may be provided by future Court order or agreement in related cases or otherwise.

21. “**Final Determination Notice**” shall mean the written notice sent by the Distribution Agent to any Preliminary Claimant who timely responded to the Claim Status Notice in an effort to cure a deficiency, seek reconsideration of a denied claim, or otherwise dispute the determination made by the Distribution Agent, notifying the Preliminary Claimant of its determination. The Final Determination Notice will constitute the Distribution Agent’s final ruling regarding the status of the claim. Information in the Final Determination Notice shall be present in English and both traditional and simplified Chinese.

22. “**Net Available Fair Fund**” shall mean the Fair Fund, plus any interest or earnings, less Administrative Costs.

23. “**Payee**” means an Eligible Claimant who is determined to receive a Distribution Payment, as calculated in accordance with the Plan of Allocation.

24. “**Person**” shall mean a natural individual as well as a legal entity, such as a corporations, partnerships, or limited liability companies.

25. **“Plan Notice”** means a written notice from the Distribution Agent to Preliminary Claimants informing them of the Fair Fund; the Plan and its eligibility requirements; explaining how to submit a claim, including instructions for an online claims process; and how to obtain a copy of the approved Plan and Claim Form by request or from the Fair Fund’s website. The Plan Notice will also be available on the Fair Fund’s website maintained by the Distribution Agent. Information in the Plan Notice shall be present in English and both traditional and simplified Chinese.

26. **“Plan of Allocation”** means the methodology by which an Eligible Claimant’s Recognized Loss is calculated. The Plan of Allocation is set forth in Exhibit 1 and attached hereto.

27. **“Preliminary Claimants”** shall mean those Persons, or their lawful successors, identified by the Distribution Agent as having possible claims to recover from the Fair Fund under this Plan, or Persons asserting prior to the Claims Bar Date that they have possible claims to recover from the Fair Fund under this Plan.

28. **“Recognized Loss”** means the amount of loss for an Eligible Claimant as calculated in accordance with the Plan of Allocation.

29. **“Relevant Period”** means the time period from March 2011 through October 2013, the time period described in the Complaint.

30. **“Summary Notice”** means the notice published in print or internet media that shall include, at a minimum, a statement of purpose of the Fair Fund and Plan, the means of obtaining a Claims Packet, and the Claims Bar Date. The Summary Notice will be published in a manner and form deemed appropriate by the Distribution Agent and not unacceptable to the Commission staff. The Summary Notice will also be sent by email to all Preliminary Claimants known to the

Distribution Agent who which an email address is available. Information in the Summary Notice shall be present in English and both traditional and simplified Chinese.

31. “**US Person**” means a United States citizen, resident, or Green Card holder at the time of the purchase of the investment.

IV. TAX COMPLIANCE

32. The Fair Fund constitutes a Qualified Settlement Fund (“QSF”) under Section 468B(g) of the Internal Revenue Code of 1986, as amended, 26 U.S.C. § 468B(g), and related regulations, 26 C.F.R. §§ 1.468B-1 through 1.468B-5. 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. Reg. § 1.468B-2, including, but not limited to:

- (a) Obtaining a taxpayer identification number;
- (b) Requesting funds necessary for the timely payment of all applicable taxes, the payment of taxes for which the Tax Administrator has received funds, and the filing of applicable returns; and
- (c) Fulfilling any information reporting or withholding requirements required for distributions from the Fair Fund.

V. DISTRIBUTION AGENT

33. The Distribution Agent shall oversee the administration of the claims, procedures, and distribution as provided in this Plan. This will include, among other things, taking reasonable steps to identify and contact Preliminary Claimants; obtaining mailing information for Preliminary Claimants; establishing a website and staffing a call center to address inquiries during the claims process; developing a claims database; preparing accountings; cooperating with the tax

administrator appointed by the Commission to satisfy any tax liabilities and to ensure compliance with income tax reporting requirements, including but not limited to Foreign Account Tax Compliance Act (FATCA); advising Preliminary Claimants of deficiencies in claims and providing an opportunity to cure any documentary defects; taking antifraud measures, such as identifying false, ineligible and overstated claims; making determinations under the criteria established herein as to Preliminary Claimant eligibility; advising Preliminary Claimants of final claim determinations; disbursing the Fair Fund in accordance with this Plan, as ordered by the Court; and researching and reconciling errors and reissuing payments, when possible.

34. The Distribution Agent is authorized to enter into agreements with third-parties as may be appropriate or necessary in the administration of the Fair Fund, provided such third-parties are not excluded pursuant to other provisions of this Plan. In connection with such agreements, the third-parties shall be deemed to be agents of the Distribution Agent under this Plan.

35. 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 Commission staff. If a change is deemed to be material by the Commission staff, Court approval is required prior to implementation by amending the Plan.

36. The Distribution Agent may extend any procedural deadline contained in the Plan for good cause shown, if agreed upon by the Commission staff.

37. The Distribution Agent may be removed *sua sponte* at any time by the Court, and replaced with a successor. In the event the Distribution Agent decides to resign, it will first give written notice to the Commission staff and the Court of such intention, and such resignation will not be effective until the Court has appointed a successor. The Distribution Agent will then follow

such instructions as such successor or the Court provides in turning over management of the Fair Fund.

VI. ADMINISTRATION OF THE FAIR FUND

Identification of and Notification to Preliminary Claimants

38. Within sixty (60) days following the entry by the Court of its order approving this Plan, the Distribution Agent shall:

- (a) Design and submit a Claims Packet, including the Plan Notice and Claim Form, to Commission staff for review and approval;
- (b) Create a mailing and claims database, consisting of documentation submitted by the Eligible Claimant, prior transaction data known to the SEC obtained by the Commission staff, or information otherwise obtained by the Distribution Agent;
- (c) Run a National Change of Address search to retrieve updated addresses for all records in the new database;
- (d) Mail by United States First Class Mail or via email a Claims Packet to each Preliminary Claimant known to the Distribution Agent;
- (e) Establish and maintain a website devoted solely to the Fair Fund. The Fair Fund website, located at CKB168FairFund.com, will make available a copy of the approved Plan, provide information regarding the claims process and eligibility requirements for participation in the Fair Fund in the form of frequently asked questions; include in downloadable form, the Claim Form and other related materials; and such other information the Distribution Agent believes will be beneficial to Preliminary Claimants;

- (f) Establish and maintain a toll-free telephone call-in number, 855-579-3088, for Preliminary 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 prerecorded information about the Fair Fund. The toll-free number will be listed on all correspondence from the Distribution Agent to Preliminary Claimants as well as on the Fair Fund's website; and
- (g) Establish and maintain a traditional mailing address and email address which will be listed on all correspondence from the Distribution Agent to Preliminary Claimants as well as on the Fair Fund's website.

39. Within twenty (20) days of the initial mailing or emailing of the Plan Notice, the Distribution Agent will publish the Summary Notice on the internet and/or in print media acceptable to Commission staff and email the Summary Notice to all known Preliminary Claimants whose email address is known.

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

41. The Commission 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 the communication with Preliminary Claimants.

42. On an on-going basis, after the Plan Notice is sent but before the Claims Bar Date, the Distribution Agent shall supply the Claims Packet to Persons who contact the Distribution Agent requesting a copy via mail, phone or e-mail.

43. The Distribution Agent will attempt to locate any Preliminary Claimant whose

mailing is returned as “undeliverable” and will document all such efforts. The Distribution Agent shall use its best efforts to make use of commercially available resources, and other reasonably appropriate means to obtain updated addresses in response to “undeliverable” notices, and forward any returned mail for which an updated address is provided or obtained. After consultation with Commission staff, the Distribution Agent may also engage a third-party search firm to conduct more rigorous searches for Preliminary Claimants whose Claims Packet is returned as undeliverable. The Distribution Agent will make available, upon request by the Commission staff, a list of all Preliminary Claimants whose Claims Packet have been returned as “undeliverable” due to incorrect addresses and for which the Distribution Agent has been unable to locate a current address.

Filing a Claim

44. To avoid being barred from asserting a claim, on or before the Claims Bar Date, each Preliminary Claimant must submit to the Distribution Agent a properly completed Claim Form reflecting such Preliminary Claimant’s claim, together with all required supporting documentation as the Distribution Agent, in its discretion, deems necessary or appropriate to substantiate the claim.

45. The burden will be upon the Preliminary Claimant to ensure that his, her or its Claim Form has been properly and timely received by the Distribution Agent. A Claim Form that is postmarked 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 Commission staff.

46. All Claim Forms and supporting documentation necessary to determine a Preliminary 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 Preliminary Claimant under penalty of

perjury under the laws of the United States. The declaration must be executed by the Preliminary Claimant, unless the Distribution Agent accepts such declaration from a Person authorized to act on the Preliminary Claimant's behalf, whose authority is supported by such documentary evidence as the Distribution Agent deems necessary.

47. Electronic claims submission is encouraged; the Claims Packet will include directions on how Preliminary Claimants can submit their claims electronically via the Fair Fund's website. If using the web-based claim filing option, a Preliminary 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 Preliminary Claimant is unable to submit their claim electronically.

Claims Eligibility Determination

48. The Distribution Agent shall review each all claim submissions and determine the eligibility of each Preliminary Claimant to participate in the Fair Fund by reviewing claim data and supporting documentation (or lack thereof) and verifying the claim. The Distribution will also make any additional conclusions on other issues relevant to the claim, including for example (and without limitation), the degree to which the Preliminary Claimant created, promoted, and/or managed the CKB Pyramid Scheme. Any Preliminary Claimant with a valid claim that invested in CKB and who is not an Excluded Party, will be deemed an Eligible Claimant. The Distribution Agent will then determine if the Eligible Claimant has suffered a Recognized Loss pursuant to the Plan of Allocation. Each Preliminary Claimant shall have the burden of proof to establish the validity and amount of his or her claim. The Distribution Agent shall have the right to request, and the Preliminary Claimant shall have the burden of providing to the Distribution Agent, any additional information and/or documentation deemed relevant by the Distribution Agent.

49. The Distribution Agent will provide a Claim Status Notice within ninety (90) days of the Claims Bar Date to each Preliminary Claimant who has filed a Claim Form with the Distribution Agent, setting forth the Distribution Agent's determination of eligibility of the claim (eligible, partially or wholly deficient, or ineligible). The Claim Status Notice will provide to each Preliminary 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). In the event the claim is denied, in whole or in part, the Claim Status Notice will state the reason(s) for such denial. The Claim Status Notice will also notify the Preliminary Claimant of the opportunity to cure any deficiency, request reconsideration, or dispute the determination made by the Distribution Agent and provide instructions regarding what is required to do so.

50. Any Preliminary Claimant with a deficient claim will have thirty (30) days from the date of the Claim Status Notice to cure any deficiencies identified in the Claim Status Notice.

51. Any Preliminary Claimant seeking reconsideration of a denied claim must advise the Distribution Agent in writing within thirty (30) days of the date of the Claim Status Notice. All requests for reconsideration must include the necessary documentation to substantiate the basis upon which the Preliminary Claimant is requesting reconsideration of his, her, or its claim.

52. The Distribution Agent may, in its sole discretion, consider disputes of any nature presented in writing within thirty (30) days of the Claim Status Notice by Preliminary Claimants, and will consult Commission staff as appropriate.

53. The Distribution Agent will send, as appropriate, a Final Determination Notice to all Preliminary Claimants who responded to the Claim Status Notice in an effort to cure a deficiency, seek reconsideration of a rejected claim, or dispute the Distribution Agent's determination, notifying the Preliminary Claimant of its determination. The Distribution Agent

will send such Final Determination Notices no later than thirty (30) days following receipt of documentation or information in response to the Claim Status Notice, or such longer time as the Distribution Agent determines is necessary for a proper determination concerning the claim. 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.

54. The Preliminary Claimant has the burden of notifying the Distribution Agent of a change in his, her or its current address and other contact information, and of ensuring that such information is properly reflected on the Distribution Agent's records.

55. The Distribution Agent shall have the authority, in consultation with the Commission staff, to extend the Claims Bar Date and waive technical claim deficiencies and approve claims.

Distribution Methodology

56. The Distribution Agent will calculate each Eligible Claimant's Recognized Loss in accordance with the Plan of Allocation. All Eligible Claimants who are determined to receive a Distribution Payment will be deemed a Payee.

57. The Distribution Agent in its exclusive discretion may, but will have no obligation to, aggregate accounts held by a Person in the same legal capacity in determining Recognized Loss and Distribution Payment amounts.

Establishment of a Reserve

58. Before determining the amount of funds available for distribution and calculating each Payee's Distribution Payment, the Distribution Agent, in conjunction with the Tax Administrator, will establish a reserve to pay Administrative Costs and to accommodate any unexpected expenditures (the "Reserve").

59. After all disbursements and Administrative Costs are paid, any remaining amounts in the Reserve will become part of the Residual described below.

Preparation of the Payment File

60. Within one hundred twenty (120) days following the date the Distribution Agent has mailed the Final Determination Notices, the Distribution Agent will compile and send to the Commission staff the Payee information, including the name, address, calculated Recognized Loss, and the amount of the Distribution Payment for all Payees (the “Payee List”). The Distribution Agent will also provide the Commission staff with a Declaration to the Commission staff for review representing that the Payee List: (a) was compiled in accordance with this Plan; (b) is accurate as to Payees’ names, addresses, Recognized Losses and amounts of their Distribution Payments; (c) includes the number of Payees compensated; (d) the *pro-rata* applied, if any; (e) the percentage of Recognized Loss being compensated by the Fair Fund; (f) the total amount being distributed; and (g) provides all information necessary to make payments to each Payee.

Escrow Account

61. Prior to the disbursement of the Net Available Fair Fund, the Distribution Agent will establish an escrow account (the “Escrow Account”) with a United States commercial bank that is a well-capitalized financial institution as defined by the Federal Reserve Act, Subpart D, 12 C.F.R. 208.43 and that is not unacceptable to the Commission staff (the “Bank”), pursuant to an escrow agreement (the “Escrow Agreement”) to be provided by Commission staff.

62. The Distribution Agent, pursuant to the Escrow Agreement, shall also establish with the Bank a separate deposit account (e.g. controlled distribution account, managed distribution account, linked checking and investment account) (the “Distribution Account”),

insured by the Federal Deposit Insurance Corporation (“FDIC”) up to the guaranteed FDIC pass through limit. The Distribution Account shall be linked with the Escrow Account and shall be named, and records maintained, in accordance with the Escrow Agreement.

63. During the term of the Escrow Agreement, the portions of the Fair Fund transferred to the Escrow Account (the “Escrow Property”), 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 Payees, tax obligations, and/or fees of the Tax Administrator and/or Distribution Agent, including investment or reinvestment in a bank account insured by the 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.

64. Within ten (10) days of transfer of the Escrow Property, the Distribution Agent shall sign and file a receipt acknowledging the receipt of the funds and supply a copy of the receipt to the counsel of record for the Commission in this matter.

65. 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.

66. The Distribution Agent shall deposit or invest funds in the Escrow and Distribution Accounts so as to result in the maximum reasonable net return, taking into account the safety of such deposits or investments. In consultation with Commission staff, the Distribution Agent shall

work with the Bank on an ongoing basis to determine an allocation of funds between the Escrow and Distribution Account.

67. All interest, dividends, and/or income earned by the Escrow Property will accrue for the benefit of the Escrow Property. All Administrative Cost associated with the Escrow and Distribution Accounts will be the responsibility of the Distribution Agent, who may be reimbursed for said costs as provided in this Plan. No such Administrative Costs may be paid to the Bank, its agents, and/or its affiliates from the Escrow Property.

Distribution of the Fair Fund

68. The Distribution Agent shall distribute the Net Available Fair Fund to all Payees, in one or more tranches, once all Claim Forms have been processed and all Eligible Claimants whose claims have been rejected or disallowed, in whole or in part, have been notified and provided the opportunity to cure pursuant to the procedures set forth above. No distribution will be conducted without prior authorization by an Order of the Court.

69. Upon receipt, review, and acceptance of the Payee List and the Declaration, the Commission staff will seek an order from the Court to disburse funds to the Bank in accordance with the Payee List (the “Escrow Property”) and pursuant to the Escrow Agreement, for distribution by the Distribution Agent to Eligible Claimants in accordance with the Plan. In conjunction with any motion seeking approval of a distribution, the Payee List will, upon request, be made available to the Court under seal.

70. Upon issuance of an Order to disburse by this Court, the Commission staff will direct the transfer of the amount referred to on the Payee List to the Bank for distribution by the Distribution Agent in accordance with the Plan.

71. The Distribution Agent will then use its best efforts to commence mailing

Distribution Payment checks and/or effect wire transfers within ten (10) business days of the release 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.

72. Upon receipt of the monies into the Escrow Account, the Distribution Agent will provide a signed receipt to the Commission staff within ten (10) business days.

73. All Distribution Payments will be issued by the Distribution Agent from the Distribution Account. All checks will bear a stale date of ninety (90) days from the date of issuance. Checks that are not negotiated by the stale date will be voided, and the Bank will be instructed to stop payment on those checks. A Payee's claim will be extinguished if he, she, or it fails to negotiate his, her, or its check by the stale date, and the funds will remain in the Fair Fund.

74. All payments will be preceded or accompanied by a communication that includes, as appropriate: (a) a statement characterizing the distribution; (b) a statement that the tax treatment of the distribution is the responsibility of each Payee and that the Payee should consult his, her or its tax advisor for advice regarding the tax treatment of the distribution; (c) a statement that checks will be void after ninety (90) days; and (d) contact information for the Distribution Agent, 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 Commission staff and the Tax Administrator for review and approval.

75. All Distribution Payments, either on their face or in the accompanying mailing, will clearly indicate that the money is being distributed from a Fair Fund to compensate investors for harm as a result of securities law violations.

76. The submission of a Claim Form and the receipt and acceptance of a Distribution Payment by a Payee is not intended to be a release of a Payee's rights and claims against any party.

Post-Distribution; Handling of Return or Uncashed Checks and Reissues

77. The Distribution Agent shall use its best efforts to make use of reasonable commercially available resources and other reasonably appropriate means to locate all Payees whose checks are returned to the Distribution Agent as “undeliverable” by the U.S. Postal Service. If new address information becomes available, the Distribution Agent will repackage the distribution check and send it to the new address. If new address information is not available after a diligent search (and in no event no 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 is unable to find a Payee’s correct address, the Distribution Agent, in its discretion, may remove such Payee from the distribution and the allocated Distribution Payment will remain in the Fair Fund for distribution, if feasible, to the remaining Payees.

78. The Distribution Agent shall reissue checks to Payees upon the receipt of a valid written request from a Payee prior to the initial stale date. In cases where a Payee is unable to endorse a disbursement check as written (e.g., name change as a result of marriage, divorce or death), and the Payee or its lawful representative requests the reissuance of a Distribution Payment under a different name, the Distribution Agent will request, and must receive, documentation supporting the change. The Distribution Agent will review the documentation to determine the authenticity and propriety of the change request. If such change request is properly documented, the Distribution Agent will issue an appropriately redrawn check to the requesting party. Such reissued checks will be void at the later of ninety (90) days from the issuance of the original check or thirty (30) days from the reissuance, and in no event will a check be reissued after one hundred

sixty days (160) days from the date of the original issuance without the approval of Commission staff.

79. The Distribution Agent will make reasonable efforts to contact Payees to follow up on the status of uncashed Distribution Payments over \$100 (other than those returned as “undeliverable”) and take appropriate action to follow-up on the status of uncashed checks at the request of Commission staff. The Distribution Agent may reissue such checks, subject to the time limits detailed herein.

Filing of Reports

80. The Distribution Agent shall provide to the Commission staff a progress report and a quarterly account statement in a format to be provided by Commission staff, within forty-five (45) days of the Court approval of this Plan, and shall provide additional progress reports within twenty (20) days after the end of every calendar quarter thereafter, and a final report when its duties are completed. The Commission staff shall provide these reports to the Court upon request.

81. The progress reports shall inform the Court and Commission staff of the activities of the Fair Fund during the relevant reporting period, and once funds are transferred to the Bank it will specify, at a minimum: (a) the location of the account(s) comprising the Fair Fund, and (b) an interim accounting of all monies in the Fair Fund as of the most recent month-end, including the value of the account(s), all monies earned or received into the account(s), funds distributed to Payees under this Plan, and any monies expended from the Fair Fund to satisfy any fees, costs, taxes and other expenses incurred in the implementation of this Plan.

82. Upon completion of all distributions to Payees pursuant to the procedures described above, the Distribution Agent shall transfer all remaining funds to the Commission, and submit a final accounting on a standardized form provided by the Commission staff. The Distribution Agent

will also submit a report to the Commission staff containing the final distribution statistics regarding distributions to individuals and entities, and such other information requested by the Commission staff.

Disposition of Residual Funds

83. If funds remain following the initial distribution and payment of all Administrative Costs, the Distribution Agent, in consultation with the Commission staff, may seek additional order(s) from the Court for subsequent distribution of any available remaining funds, pursuant to a Court Order.

84. A residual within the Fair Fund will be established for any amounts remaining after the final disbursement to Payees from the Fair Fund (the “Residual”). The Residual may include funds from, among other things, the Reserve, distribution checks that have not been cashed, checks or electronic payments that were not delivered or accepted upon delivery and returned to the Commission, tax refunds for overpayment or for waiver of IRS penalties.

85. All funds remaining in the Residual that are infeasible to distribute to investors will be returned to the Commission, pending a final accounting. Upon completion of the final accounting, the Commission staff will file a motion with this Court to approve the final accounting, which will include a recommendation as to the final disposition of the Residual, consistent with Section 21(d)(7) of the Exchange Act [15 U.S.C. § 78u(d)(7)],² *Liu v. SEC*, 140 S. Ct. 1936 (2020), and equitable principles. If distribution of the Residual to investors is infeasible, the Commission staff may recommend the transfer of the Residual to the general fund of the U.S. Treasury subject to Section 21F(g)(3) of the Exchange Act.³

² Section 21(d)(7) was added to the Exchange Act by Section 6501(a) of the National Defense Authorization Act for Fiscal Year 2021, Pub. L. No. 116-283, enacted January 1, 2021.

³ 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

Termination of the Fair Fund

86. 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) The Court has approved the SEC staff's recommendation as to the final disposition of the Residual consistent with Section 21(d)(7), *Liu v. SEC*, 140 S. Ct. 1936 (2020), and equitable principles.

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

Miscellaneous

88. 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.

89. The Distribution Agent is entitled to rely on all outstanding rules of law and Court orders. The Distribution Agent will not be liable to anyone, except the Commission on behalf of the Fair Fund for a pecuniary loss to the Fair Fund, for any action taken or omitted by the Distribution Agent in connection with the Plan and all Preliminary Claimants will have no claims against the Distribution Agent, its employees, agents, and attorneys in connection with the Plan and the administration of the Fair Fund, and will be deemed enjoined from prosecuting or asserting

laws that is not added to a disgorgement fund or Distribution Fund or otherwise distributed to victims, plus investment income, shall be deposited or credited into the SEC Investor Protection Fund.

any such claims, except upon a finding by this Court of gross negligence or reckless disregard of duty under this Plan.

90. Should any additional funds be received pursuant to Commission or Court order, agreement, or otherwise, prior to the Court's termination of the Fair Fund, such funds will be added to the Fair Fund and distributed, if feasible, in accordance with the Plan.

Administrative Costs

91. The Distribution Agent will be entitled to reasonable administrative fees and expenses in connection with the administration and distribution of the Fair Fund (including any such fees and expenses incurred by agents, consultants or third-parties retained by the Distribution Agent in furtherance of its duties), which shall be paid from the Fair Fund, pursuant to Court Order. The Distribution Agent will invoice all fees and expenses for the administration and distribution of the Fair Fund on a quarterly basis.

92. Pursuant to the Court's Order entered on March 1, 2019, the Tax Administrator will invoice all taxes and fees and expenses for the administration of the fund directly to Commission staff, for approval and payment from the fund, without further Court Order (Dkt.#419).

93. All Administrative Costs shall be paid from the Fair Fund, pursuant to a Court Order and shall be reflected in the final accounting referenced above.

Wind-down and Document Retention

94. The Distribution 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 approval of the final accounting, or at such earlier time as the Distribution Agent determines with the concurrence of the Commission staff.

95. The Distribution Agent will retain all materials submitted by Preliminary Claimants in either paper or electronic form for a period of six (6) years from the date of approval of a final fund accounting. Materials maintained in electronic form must be accessible and readable for the duration of retention. Pursuant to the Commission staff's direction, the Distribution Agent will either turn over to the Commission or destroy all materials, including documents in any media, upon expiration of this period. The Distribution Agent will retain all claims materials in paper and electronic form for a period of six (6) years from the approval of the final accounting. Pursuant to Commission staff's direction, the Distribution Agent will either turn over to the Commission or destroy all documents, including documents in any media, upon expiration of this period.

EXHIBIT A

PLAN OF ALLOCATION

This Plan of Allocation is designed to compensate investors based on their losses due to their investment in CKB, from March 2011 through October 2013, inclusive, due to the misconduct described in the Complaint. Claimants who did not invest in CKB or who an Excluded Party⁴ are ineligible to recover under this Plan.

The Distribution Agent will calculate each Eligible Claimant's Recognized Loss as "Money In" minus "Money Out."

- Money In are amounts paid by each investor as determined taking into consideration documentation submitted by the Eligible Claimant as well as prior transaction data known to the SEC. All transactions will be calculated in US dollars.
- Money Out in this matter are daily commissions paid to each investor as determined taking into consideration documentation submitted by the Eligible Claimant as well as prior transaction data known to the SEC. All transactions will be calculated in US dollars.

If the Recognized Loss calculates to zero or negative number, the Recognized Loss is considered to be zero.

Additional Provisions

Allocation of Funds: If the Net Available Fair Fund, as defined in the Plan, is equal to or exceeds the sum of Recognized Losses of all Eligible Claimants, each Eligible Claimant's

⁴ All capitalized terms used herein but not defined shall have the same meanings ascribed to them in the Plan.

distribution amount will equal his, her or its Recognized Loss. If the Net Available Fair Fund is less than the sum of the Recognized Losses of all Eligible Claimants, each Eligible Claimant's distribution amount will equal his, her or its "*Pro Rata Share*" of the Net Available Fair Fund. In either case, the distribution amount will be subject to the "Minimum Distribution Amount."

Pro Rata Share: A *Pro Rata Share* computation is intended to measure Eligible Claimants' Recognized Losses against one another. The Fund Administrator shall determine each Eligible Claimant's *Pro Rata Share* as the ratio of his, her, or its Recognized Loss to the sum of Recognized Losses of all Eligible Claimants.

Minimum Distribution Amount: The Minimum Distribution Amount will be \$10.00. If an Eligible Claimant's distribution amount is less than the Minimum Distribution Amount, that Eligible Claimant will be deemed ineligible to receive a Distribution Payment and his, her, or its distribution amount will be reallocated on a *pro-rata* basis to Eligible Claimants whose distribution amounts are greater than or equal to the Minimum Distribution Amount.

Payee: An Eligible Claimant whose distribution amount equals or exceeds the Minimum Distribution Amount will be deemed a Payee and receive a Distribution Payment for their distribution amount. In no event will a Payee receive from the Fair Fund more than his, her, or its Recognized Loss.

Prior Recovery: To avoid payment of a windfall, the Distribution Payment will be no larger than the Payee's Recognized Loss minus the amount of any compensation for the loss that resulted from the conduct alleged in the Complaint that was received from another source (e.g., class action settlement), to the extent known by the Distribution Agent.