

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 76264 / October 26, 2015

INVESTMENT ADVISERS ACT OF 1940
Release No. 4243 / October 26, 2015

ADMINISTRATIVE PROCEEDING
File No. 3-16925

In the Matter of

**NATIONAL ASSET
MANAGEMENT, INC.,**

Respondent.

**ORDER INSTITUTING ADMINISTRATIVE
AND CEASE-AND-DESIST PROCEEDINGS,
PURSUANT TO SECTION 15(b)(6) OF THE
SECURITIES EXCHANGE ACT OF 1934
AND SECTIONS 203(e) AND 203(k) OF THE
INVESTMENT ADVISERS ACT OF 1940,
MAKING FINDINGS, AND IMPOSING
REMEDIAL SANCTIONS AND A CEASE-
AND-DESIST ORDER**

I.

The Securities and Exchange Commission (“Commission”) deems it appropriate and in the public interest that public administrative and cease-and-desist proceedings be, and hereby are, instituted pursuant to Section 15(b)(6) of the Securities Exchange Act of 1934 (“Exchange Act”) and Sections 203(e) and 203(k) of the Investment Advisers Act of 1940 (“Advisers Act”) against National Asset Management, Inc. (“NAM” or “Respondent”).

II.

In anticipation of the institution of these proceedings, Respondent has submitted an Offer of Settlement (the “Offer”) which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, and without admitting or denying the findings herein, except as to the Commission’s jurisdiction over it and the subject matter of these proceedings, which are admitted, Respondent consents to the entry of this Order Instituting Administrative and Cease-and-Desist Proceedings Pursuant to Section 15(b)(6) of the Securities Exchange Act of 1934 and Sections 203(e) and 203(k) of the Investment Advisers Act of 1940, Making Findings, and Imposing Remedial Sanctions and a Cease-and-Desist Order (“Order”), as set forth below.

III.

On the basis of this Order and Respondent's Offer, the Commission finds that:

Summary

These proceedings arise out of several disclosure and compliance-related violations during 2008 through 2012 by Commission-registered investment adviser National Asset Management, Inc. First, NAM failed to disclose to its advisory clients in writing or obtain their consent to over 21,000 securities trades executed in a principal capacity by NAM's affiliated broker-dealers. Second, NAM failed to report in its Commission filings and timely disclose to its clients the disciplinary histories of several of its associated persons. Third, NAM did not enforce its code of ethics when its CEO, several directors, and many of its employees failed to submit hundreds of required reports on their personal securities trading to NAM. Finally, NAM failed to adopt and implement compliance policies and procedures reasonably designed to prevent violations of certain provisions of the Advisers Act and the rules thereunder, and failed to conduct a required annual review of its compliance policies and procedures. NAM committed these failures while aware of the potential conflicts of interest its affiliated broker-dealers presented and its compliance responsibilities under the Advisers Act. Nevertheless, it failed to take reasonable steps to address these risks and responsibilities.

Respondent

1. National Asset Management, Inc. is a Washington corporation formed in 1994 and registered with the Commission as an investment adviser since 2005. Its principal place of business is in Seattle, Washington. As of May 2015, NAM had reported assets under management of approximately \$1.3 billion and approximately 4,500 clients. NAM is a wholly owned subsidiary of a publicly traded parent company whose other subsidiaries include broker-dealers registered with the Commission. During the relevant period, certain individuals who were officers of the parent company also served as officers and/or directors of NAM and/or the broker-dealers, and the parent company controlled both NAM and the broker-dealers.

NAM Engaged in Thousands of Principal Trades Through its Affiliated Broker-Dealers Without Required Client Disclosure and Consent

2. Under Section 206(3) of the Advisers Act, it is unlawful for an investment adviser, directly or indirectly, "acting as principal for his own account, knowingly to sell any security to or purchase any security from a client . . . without disclosing to such client in writing before the completion of such transaction the capacity in which he is acting and obtaining the consent of the client to such transaction." Section 206(3) applies where an investment adviser causes a client to enter into a transaction that is effected by a broker-dealer that controls, is controlled by, or is under common control with the investment adviser. Section 206(4) of the Advisers Act and Rule 206(4)-7(a) thereunder require investment advisers to adopt and implement written policies and procedures reasonably designed to prevent violations of the Advisers Act and its rules.

3. At all times during 2008 through 2012, NAM offered its clients several advisory programs. In certain of these programs (hereafter “the affiliated programs”), the introducing broker for the NAM clients was one of two broker-dealers (“BD-1” and “BD-2”) that were wholly owned subsidiaries of NAM’s parent company. NAM knew, as stated in its Form ADV, that BD-1 and BD-2 provided order execution services to the NAM clients in the affiliated programs and were capable of executing the clients’ orders in a principal capacity. As of March 2012, approximately 55 percent of NAM’s advisory assets under management were invested in the affiliated programs.

4. NAM was aware of both the potential conflicts of interest that principal transactions present and the fact that its affiliated broker-dealers provided order execution services for many of its clients. Nonetheless, NAM’s compliance policies and procedures were not reasonably designed to prevent NAM’s affiliated broker-dealers from selling or purchasing securities to or from NAM clients in violation of Section 206(3) of the Advisers Act.

5. In 2007, NAM made efforts to electronically route its client orders in a manner that ensured they were executed by an independent broker-dealer and not an affiliated broker-dealer. However, NAM never tested whether these efforts were effective.

6. In late 2008, BD-1 implemented a new electronic order management system it used to route orders for securities trades for execution. In addition to BD-1, BD-2 and two NAM directors (each also an officer of BD-1 or BD-2) were aware of the implementation of BD-1’s new system. However, no one at NAM, BD-1, or BD-2 took any steps to determine whether the new system would route NAM client orders such that NAM, through BD-1 or BD-2, would sell or purchase securities to or from its clients as a principal without prior written disclosure to and consent of the clients.

7. Consequently, after the new system was implemented in late 2008, and continuing through 2012, approximately 18,400 NAM client orders for equity securities trades were routed from BD-1 to BD-2 by the new system and then executed by BD-2 in a principal capacity. NAM did not disclose in writing to its clients that, through its affiliated broker-dealers, it would act as a principal for its own account in selling or purchasing the equity securities to or from the clients. Nor did it obtain consent from its clients to enter into these trades on a principal basis. BD-2 knew that it acted as a principal in executing the approximately 18,400 orders.

8. Also during late 2008 through 2012, NAM personnel periodically called or directly communicated by other means with the trading desks at BD-1 and BD-2 to submit NAM client orders for fixed income securities trades. BD-1 and BD-2 executed approximately 3,100 of these orders in a principal capacity. NAM did not disclose in writing to its clients that, through its affiliated broker-dealers, it would act as a principal for its own account in selling or purchasing the fixed income securities to or from the clients. Nor did it obtain consent from its clients to enter into these trades on a principal basis. BD-1 and BD-2 knew they acted as principal in executing the approximately 3,100 orders.

9. In early 2011, NAM implemented a trade review system that captured detailed information on each client securities trade. During 2011 and 2012, NAM required its supervisory staff to use the system to review and approve (if appropriate) all client trades on a daily basis. Although NAM knew that affiliated broker-dealers (BD-1 and BD-2) were providing order execution services for many NAM clients, the system it implemented lacked the capacity to identify or flag principal transactions.

10. Throughout the relevant period, NAM's compliance manual had no policies or procedures addressing principal transactions.

11. In late 2012, Commission staff conducting an examination of NAM notified NAM that they had discovered possible principal trades. After this notification, NAM identified to the examination staff the 21,500 principal trades in equity and fixed income securities described above. Thereafter, NAM reimbursed clients whose orders were executed on a principal basis without disclosure and consent approximately \$385,000.

NAM Failed to Report and Disclose to Clients the Disciplinary History of Several of its Investment Adviser Representatives

12. Registered investment advisers are required to file Form ADV Part 1A with the Commission and maintain its accuracy through annual updates and other amendments. Among other things, Part 1A must report certain disciplinary actions taken against the adviser or its employees. During 2008 through 2012, NAM filed Part 1A amendments which omitted 19 disciplinary actions that were required to be reported. These actions ranged from a ten-day suspension and \$2,500 fine imposed by FINRA against an investment adviser representative for conducting an outside business activity without prompt notice to his previous employer, to the indictment of an investment adviser representative for securities fraud committed at a previous employer.

13. As amended in 2010, Advisers Act Rule 204-3 requires registered investment advisers to provide clients and prospective clients with Form ADV Part 2B, also called the brochure supplement. Among other things, the brochure supplement discloses to each client certain disciplinary history, if any, of the investment adviser representative who advises that client. The deadline for NAM to deliver its first brochure supplements under the 2010 amendment was in February 2012. At that time, NAM had at least eight disciplinary events required to be disclosed in brochure supplements. NAM failed to deliver its brochure supplements to clients until January 2013, approximately eleven months late, and after the Commission's examination staff notified NAM it was not in compliance.

NAM Failed to Enforce Part of its Code of Ethics

14. Section 204A of the Advisers Act and Rule 204A-1 thereunder require registered investment advisers to establish, maintain, and enforce a written code of ethics. In part, the code of ethics must require the adviser's "access persons" (as defined in Rule 204A-1) to periodically

report their personal securities transactions to the adviser's chief compliance officer (or other designee). During 2008 through 2012, NAM's code of ethics required its access persons to submit reports each quarter identifying their personal securities transactions, or stating they had no transactions that quarter. During the same period, NAM failed to enforce its code of ethics because many of its access persons, including its CEO and several directors, failed to submit over 500 required quarterly reports.

NAM Failed to Conduct an Annual Compliance Review

15. Section 206(4) of the Advisers Act and Rule 206(4)-7(b) thereunder require registered investment advisers to review the adequacy and effectiveness of their compliance policies and procedures at least annually. For 2012, NAM failed to conduct the required review.

Violations

16. As a result of the conduct described above, NAM willfully¹ violated Section 206(3) of the Advisers Act.

17. As a result of the conduct described above, NAM willfully violated Section 207 of the Advisers Act, which makes it "unlawful for any person willfully to make any untrue statement of a material fact in any registration application or report filed with the Commission . . . or willfully to omit to state in any such application or report any material fact which is required to be stated therein."

18. As a result of the conduct described above, NAM willfully violated Section 204 of the Advisers Act and Rules 204-1 and 204-3 thereunder, which require registered investment advisers to amend Form ADV as prescribed by the Commission and timely deliver to clients and prospective clients brochure supplements that contain all information required by Part 2 of Form ADV.

19. As a result of the conduct described above, NAM willfully violated Section 204A of the Advisers Act and Rule 204A-1 thereunder, which require registered investment advisers to establish, maintain, and enforce a written code of ethics with provisions requiring that the adviser's access persons report, and that the adviser review, their personal securities transactions and holdings periodically.

20. As a result of the conduct described above, NAM willfully violated Section 206(4) of the Advisers Act and Rule 206(4)-7(a) and (b) thereunder, which require registered investment advisers to (i) adopt and implement written policies and procedures reasonably designed to prevent violation, by the adviser and its supervised persons, of the Advisers Act and

¹ A willful violation of the securities laws means merely "that the person charged with the duty knows what he is doing." *Wonsover v. SEC*, 205 F.3d 408, 414 (D.C. Cir. 2000) (quoting *Hughes v. SEC*, 174 F.2d 969, 977 (D.C. Cir. 1949)). There is no requirement that the actor "also be aware that he is violating one of the Rules or Acts." *Id.* (quoting *Gearhart & Otis, Inc. v. SEC*, 348 F.2d 798, 803 (D.C. Cir. 1965)).

rules thereunder, and (ii) review, no less frequently than annually, the adequacy of the policies and procedures and effectiveness of their implementation.

NAM's Remedial Efforts

21. In determining to accept the Offer, the Commission considered remedial acts promptly undertaken by NAM and cooperation afforded the Commission staff.

Undertakings

NAM has undertaken as follows:

22. **Independent Compliance Consultant.**

a. Within 30 days of the entry of this Order, NAM shall retain at its expense an Independent Compliance Consultant ("ICC") not unacceptable to the staff of the Commission;

b. NAM shall require the ICC to conduct a comprehensive review of NAM's policies and procedures with respect to (i) compliance with Section 206(3) of the Advisers Act; (ii) accuracy and completeness of disclosure and reporting in Forms ADV and timely distribution of Form ADV disclosures to clients; (iii) enforcement of code of ethics provisions on reporting of personal securities transactions; and (iv) ensuring completion of annual compliance reviews pursuant to Rule 206(4)-7(b);

c. NAM shall provide to the Commission staff, within thirty (30) days of retaining the ICC, a copy of an engagement letter detailing the ICC's responsibilities, which shall include the review described above in Paragraph 22.b;

d. NAM shall cooperate fully with the ICC and provide the ICC with access to any of NAM's files, books, records and personnel as are reasonably requested;

e. NAM shall require the ICC to complete his/her/its review and submit a written report ("Report") to NAM and the Commission staff within one hundred twenty (120) days of the entry of this Order. NAM shall require that the Report include a description of the review performed by the ICC, the conclusions reached, the ICC's recommendations for any changes in or improvements to NAM's policies and procedures, and a plan for implementing any such recommended changes or improvements;

f. Within ninety (90) days of receipt of the Report, NAM shall adopt and implement all recommendations contained in the Report; provided, however, that as to any recommendation that NAM considers to be, in whole or in part, unduly burdensome or impractical, NAM may submit in writing to the ICC and Commission staff, within thirty (30) days of receiving the Report, an alternative policy, practice, or procedure designed to achieve the same objective or purpose. Within forty-five (45) days of receiving the Report, NAM

and the ICC shall attempt in good faith to reach an agreement relating to each recommendation that NAM considers to be unduly burdensome or impractical. Within fifteen (15) days after the discussion and evaluation by NAM and the ICC, NAM shall require that the ICC inform NAM and the Commission staff of the ICC's final determination concerning any recommendation that NAM considers unduly burdensome or impractical, and NAM shall abide by the determinations of the ICC and adopt and implement all recommendations within the 90-day time period set forth in this paragraph;

g. Within fourteen (14) days of NAM's adoption of all of the recommendations that the ICC deems appropriate, NAM shall certify in writing to the ICC and Commission staff that NAM has adopted and implemented all of the ICC's recommendations;

h. To ensure the independence of the ICC, NAM shall not have the authority to terminate the ICC without prior written approval of Commission staff; NAM shall compensate the ICC and persons engaged to assist the ICC for services rendered pursuant to this Order at their reasonable and customary rates; and NAM shall not be in and shall not have an attorney-client relationship with the ICC and shall not invoke the attorney-client or any other doctrine or privilege to prevent the ICC from communicating with or transmitting any information, reports, or documents concerning the ICC's review of NAM to the Commission staff;

i. NAM shall require the ICC to enter into an agreement that provides that for the period of engagement and for a period of two years from completion of the engagement, the ICC shall not enter into any employment, consultant, attorney-client, auditing or other professional relationship with NAM, or any of its present or former affiliates, directors, officers, employees, or agents acting in their capacity as such. The agreement will also provide that the ICC will require that any firm with which he/she/it is affiliated or of which he/she/it is a member, and any person engaged to assist the ICC in performance of his/her/its duties under this Order shall not, without prior written consent of the staff of the Commission, enter into any employment, consultant, attorney-client, auditing or other professional relationship with NAM, or any of its present or former affiliates, directors, officers, employees, or agents acting in their capacity as such for the period of the engagement and for a period of two years after the engagement; and

j. NAM shall preserve for a period of not less than six (6) years from the date of this Order, the first two (2) years in an easily accessible place, any record of NAM's compliance with the undertakings set forth in this paragraph.

23. Cooperation of affiliates with ICC. NAM shall use its best efforts to cause its parent company and the parent company's other subsidiaries to provide such cooperation as may be reasonably needed to facilitate the ICC's performance of his/her/its duties.

24. Annual reports regarding principal trades. For three years, NAM shall submit to the staff of the Commission an annual written report assessing the effectiveness of NAM's policies and procedures on preventing violations of Section 206(3) of the Advisers Act. The first

report shall be due one year after NAM implements the ICC's recommendations pursuant to Paragraph 22.f above; the second report shall be due two years after the implementation; and the third report shall be due three years after the implementation.

25. Order Notification. Within ten (10) days of the entry of this Order, NAM shall post prominently on the homepage of NAM's website a summary of this Order in a form and location not unacceptable to the Commission staff, with a hyperlink to the entire Order. NAM shall maintain the posting and hyperlink on NAM's website for twelve (12) months from the entry of this Order. Within thirty (30) days of the date of the entry of this Order, NAM shall provide a copy of the Order to each of NAM's existing advisory clients as of date the entry of this Order via mail, email, or such other method as may be not unacceptable to the Commission staff, together with a cover letter in a form not unacceptable to the Commission staff. Furthermore, for twelve (12) months from the entry of this Order, to the extent that NAM is required to deliver a brochure to a client and/or prospective client pursuant to Rule 204-3 under the Advisers Act, NAM shall also provide a copy of this Order to such client and/or prospective client at the same time that NAM delivers the brochure.

26. Certification of Compliance. NAM shall certify, in writing, compliance with the undertaking(s) set forth above. The certification shall identify the undertaking(s), provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Commission staff may make reasonable requests for further evidence of compliance, and NAM agrees to provide such evidence. The certification and supporting material shall be submitted to Tracy L. Davis, Assistant Regional Director in the Commission's San Francisco Regional Office, with a copy to the Office of Chief Counsel of the Enforcement Division, no later than sixty (60) days from the date of the completion of the undertakings.

27. Deadlines. For good cause shown, Commission staff may extend any of the procedural deadlines relating to the undertakings. Deadlines shall be determined based on calendar days (rather than business days), except that if the last day falls on a weekend or federal holiday, the next business day shall be considered the last day.

IV.

In view of the foregoing, the Commission deems it appropriate, in the public interest to impose the sanctions agreed to in NAM's Offer.

Accordingly, pursuant to Section 15(b)(6) of the Exchange Act and Sections 203(e) and 203(k) of the Advisers Act, it is hereby ORDERED that:

A. NAM cease and desist from committing or causing any violations and any future violations of Sections 204, 204A, 206(3), 206(4), and 207 of the Advisers Act and Rules 204-1, 204-3, 204A-1, and 206(4)-7 promulgated thereunder.

B. NAM is censured.

C. NAM shall, within ten (10) days of the entry of this Order, pay a civil money penalty in the amount of \$200,000 to the Securities and Exchange Commission. If timely payment is not made, additional interest shall accrue pursuant to 31 U.S.C. 3717. Payment must be made in one of the following ways:

- (1) NAM may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;
- (2) NAM may make direct payment from a bank account via Pay.gov through the SEC website at <http://www.sec.gov/about/offices/ofm.htm>; or
- (3) NAM may pay by certified check, bank cashier's check, or United States postal money order, made payable to the Securities and Exchange Commission and hand-delivered or mailed to:

Enterprise Services Center
Accounts Receivable Branch
HQ Bldg., Room 181, AMZ-341
6500 South MacArthur Boulevard
Oklahoma City, OK 73169

Payments by check or money order must be accompanied by a cover letter identifying National Asset Management, Inc. as a Respondent in these proceedings, and the file number of these proceedings; a copy of the cover letter and check or money order must be sent to Erin L. Schneider, Associate Regional Director, Securities and Exchange Commission, 44 Montgomery Street, Suite 2800, San Francisco, CA 94104.

D. NAM shall comply with the undertakings enumerated in Paragraphs III.22 through III.27 above.

By the Commission.

Brent J. Fields
Secretary