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Scandal Payouts Still Stuck in Escrow

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More than three years after New York attorney general Eliot Spitzer blew the lid off of improper trading of mutual funds, an ongoing dispute over who is entitled to a total of $2.8 billion in fines from the resulting settlements has kept that money idle. So reports *Registered Rep*.

Four of the 20 fund firms involved have filed detailed plans with the SEC to distribute the money. But shareholders and lawyers have balked at each of them, leaving SEC officials scratching their heads while the money sits in escrow.

The four companies and amounts in escrow are: **Banc One**, $50 million; **Columbia**, $140 million; **MFS**, $225 million; and **PBHG**, $250 million.

PBHG was the first firm to come up with a distribution plan, for which it hired Kenneth Lehn, a professor of finance at the University of Pittsburgh. He divided shareholders into two groups: direct investors and those who invested through omnibus accounts, but he omitted the latter from his calculations for a lack of records on them.

Figuring that anyone who made four sales in a year was market timing, Lehn estimated that 68.1% of restitution is owed to shareholders of the flagship PBHG Growth and the rest to shareholders of other PBHG funds. Omnibus managers would have 60 days to identify any affected shareholders in those accounts, or the money earmarked for them would be distributed to direct investors.

That did not sit well with investor advocates, such as Niels Holch, executive director of the Coalition of Mutual Fund Investors. He says direct investors would be overcompensated, while those who invested through an intermediary would get stiffed.

Similar distribution plans from Columbia and Banc One have also been criticized as unfair, as well as being unreasonably expensive to implement. David Wray, president of the Profit Sharing/401(k) Council of America, says most individual losses were less than $15, but the cost of getting them the money will far exceed that amount.

While some of the distribution plans fail to state who will pay for finding victims, the plan that MFS filed in September would offer administrators some leeway in tracking down shareholders. While it would still leave some shareholder in the cold, the MFS plan is gaining support.
By Pete Bucci

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