

FIFTH THIRD BANCORP FAIR FUND NOTICE TO PRELIMINARY CLAIMANTS

On December 4, 2013, the United States Securities and Exchange Commission (the “Commission”) instituted administrative proceedings against Fifth Third Bancorp and Daniel Poston for regulatory violations that occurred in 2008 and 2009, as described below. In this action, the respondents have paid in full and the Fair Fund consists of \$6,600,000 for distribution to harmed investors.

TO: Persons who purchased or otherwise acquired Fifth Third Bancorp common stock, Series G preferred American Depository Shares (ADS), and/or Series F preferred stock (the “Eligible Securities”) during the period from October 21, 2008 through January 21, 2009, inclusive (the “Relevant Period”).¹

If you purchased or acquired Eligible Securities during the Relevant Period, you may be entitled to a recovery from the Fifth Third Bancorp Fair Fund (hereinafter you will be referred to as a “Preliminary Claimant”). To be eligible to recover from the Fifth Third Bancorp Fair Fund (the “Fair Fund”), you must submit a claim form with the required documentation identified below (“Proof of Claim”) either electronically at www.FifthThird.FundAdministratorGBP.com to Guidehouse, Inc., Baker & Hostetler LLP, and PACE Claims Services LLC (“GBP” or the “Fund Administrator”), or by U.S. First Class mail (or equivalent common carrier), **by April 4, 2023** (the “Claims Bar Date”).

THIS NOTICE MAY AFFECT YOUR LEGAL RIGHTS. PLEASE READ IT CAREFULLY. AMONG OTHER THINGS, FAILURE TO TIMELY SUBMIT A CLAIM PURSUANT TO THE DIRECTIONS BELOW MAY RESULT IN YOUR CLAIM BEING REJECTED.

I. OVERVIEW

The purpose of this Preliminary Claimant Notice (the “Notice”) is to inform you that you may be entitled to a Distribution Payment from the Fair Fund described herein. Copies of this Notice are being mailed to all known Preliminary Claimants who purchased or acquired Eligible Securities during the Relevant Period. Copies of this Notice and instructions on how to file your Proof of Claim electronically are available on the Fair Fund’s website at www.FifthThird.FundAdministratorGBP.com and on the Information for Harmed Investors webpage hosted by the Commission at <https://www.sec.gov/divisions/enforce/claims/fifth-third-bancorp.htm>. As explained below, if you are a Preliminary Claimant, you must submit a Proof of Claim in accordance with the steps set forth in this Notice, and in the Plan of Distribution (the “Plan”), to be eligible to receive a Distribution Payment from the Fair Fund.

Please Note: Receipt of this Notice does not mean you are eligible to receive a Distribution Payment.

Note to Institutional Filers: **Institutional filers must submit Proofs of Claim using the electronic filing template.** The electronic filing requirements and file layout for institutional filers to upload into our system can be found at www.FifthThird.FundAdministratorGBP.com or you may email GBP at support@fundadministratorGBP.com. Any submission not in accordance with the required electronic filing format may be rejected. Proof of authority to submit a Proof of Claim must be submitted on behalf of every account for which a Proof of Claim is filed.

II. BACKGROUND

On December 4, 2013, the Commission issued an order that instituted and simultaneously settled administrative and cease-and-desist proceedings against the Respondents for violating the antifraud, reporting, internal controls, and recordkeeping provisions of the federal securities laws (the “Order”).¹ In the Order, the Commission found that Fifth Third failed to record substantial losses during the 2008 financial crisis by not properly accounting for a portion of its commercial real estate loan portfolio. In the third quarter of 2008, Fifth Third decided to sell large pools of non-performing commercial loans. U.S. accounting rules required the company to reclassify the loans from “held for investment” to “held for sale” and to carry them at fair value. Because the fair value of these loans was significantly below Fifth Third’s carrying value, classifying them as held for sale would have resulted in a \$169 million impairment and increased the company’s pretax loss in the third quarter of 2008 by 132 percent. Instead, Fifth Third continued to classify the loans as “held for investment,” which incorrectly suggested that the company had not made the decision to sell the loans. In addition, according to the Order, the Commission found that Fifth Third’s Chief Financial Officer Poston was familiar with the company’s loan sale efforts and understood the relevant accounting rules. Nevertheless, he failed to direct that Fifth Third classify the loans as required. Poston also made representations in a management letter to Fifth Third’s auditors that, in light of the company’s loan sale activities, were not true. Fifth Third’s and Poston’s accounting violations operated to deceive investors during a time of significant upheaval and financial distress for the company.

The Commission ordered the Respondents to pay \$6,600,000 in civil money penalties to the Commission. The Respondents paid the full amount ordered.

On July 28, 2021, the Commission issued an order that created the Fair Fund, pursuant to Section 308(a) of the Sarbanes-Oxley Act of 2002, so the penalties paid can be distributed to harmed investors.² The Fair Fund consists of the \$6,600,000 paid by the Respondents.

The Commission appointed Miller Kaplan Arase LLP as the Tax Administrator for the Fair Fund on September 23, 2021. The Commission appointed GBP as the Fund Administrator for the Fair Fund on December 29, 2021.

III. ELIGIBILITY CRITERIA AND ALLOCATION OF THE FAIR FUND

The Net Available Fair Fund shall be distributed to Claimants who submit Proofs of Claim to the Fund Administrator on or before the Claims Bar Date and are also determined by the Fund Administrator to be eligible for a Distribution Payment (the “Eligible Claimants”).

The Fund Administrator 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.

¹ Order Instituting Proceedings, Securities Act Rel. No. 9490 (December 4, 2013).

² Order Establishing a Fair Fund, Exchange Act Rel. No. 92511 (July 28, 2021).

To qualify for a Distribution Payment from the Fair Fund, Claimants must satisfy the criteria used to calculate an Eligible Claim as set forth in the Plan of Allocation, which is available on the Fair Fund website as Exhibit A to the Plan.

You are excluded from participation in the Fair Fund if you are:

- a. The Respondents;
- b. Present or former officers or directors of Respondents or any assigns, creditors, heirs, distributees, spouses, parents, siblings, dependent children or controlled entities of any of the foregoing Persons or entities;
- c. Any employee or former employee of the Respondents or any of its affiliates who has been terminated for cause or has otherwise resigned, in connection with the conduct described in the Order;
- d. Any Person who, as of the Claims Bar Date, has been the subject of any criminal charges related to the conduct described in the Order or any related Commission action;
- e. Any firm, trust, corporation, officer, or other entity in which Respondents have or had a controlling interest;
- f. The Fund Administrator, its employees, and those Persons assisting the Fund Administrator in its role as Fund Administrator; or
- 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.

The Fund Administrator will distribute funds to the Eligible Claimants based upon a *pro rata* distribution formula. The Fund Administrator will determine each Eligible Claimant's *pro rata* share of the Fair Fund as the ratio of his, her, or its Recognized Loss to the sum of Recognized Losses of all Eligible Claimants.³

IV. HOW TO SUBMIT A PROOF OF CLAIM AND REQUIRED DOCUMENTATION

Electronic Proofs of Claim are strongly encouraged for all Preliminary Claimants. Information on how to submit a Proof of Claim and detailed instructions on accessing the secure online Claims Portal can be found at www.FifthThird.FundadministratorGBP.com.

The deadline for submission of electronic Proofs of Claim is 11:59pm Eastern Time on April 4, 2023. All Proofs of Claim submitted by U.S. First Class mail (or equivalent common carrier), must be postmarked by April 4, 2023, and sent to the following address:

Fifth Third Bancorp Fair Fund
c/o GBP - PACE Claims Services, LLC
Fund Administrator
200 American Metro Blvd – Suite 129
Hamilton, NJ 08619

³ Only Claimants whose Recognized Claim results in a payment of \$10.00 or more will receive a Distribution Payment.

If you fail to timely submit a completed Proof of Claim, your claim may be rejected. The Proof of Claim form must be accompanied by appropriate supporting documents for each transaction for which you submit a claim.

V. CLAIMS DETERMINATION

The Fund Administrator will provide a Claim Status Notice to each Preliminary Claimant that submitted a Proof of Claim, setting forth the Fund Administrator's determination of the eligibility of the claim (eligible, partially or wholly deficient, or ineligible). 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 Fund Administrator, and provide instructions regarding what is required to do so.

The Fund Administrator will send, as appropriate, a Final Determination Notice to any Preliminary Claimant who responds to the Claim Status Notice to cure a deficiency or dispute the determination made by the Fund Administrator, notifying the Preliminary Claimant of its determination. All determinations of the Fund Administrator that are made in accordance with the Plan shall be final and not subject to appeal.

VI. OTHER CLAIMS

Upon receipt and acceptance of a distribution from the Fair Fund, you shall be deemed to have released any claims you may have against the Fund Administrator and its agents. 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 other party, including, but not limited to, Fifth Third Bancorp and Fifth Third Bancorp's past and present directors, officers, advisors and agents.

VII. CONTACT INFORMATION FOR THE FUND ADMINISTRATOR

Additional information regarding the Fifth Third Bancorp Fair Fund may be found at **www.FifthThird.FundAdministratorGBP.com**, or by emailing support@fundadministratorGBP.com, or by calling the toll-free hotline at (833) 373-3535. Please check the website frequently for updates.