

# **FRED ALGER FAIR FUND** **STATEMENT TO ELIGIBLE INVESTORS**

## **INTRODUCTION**

You are entitled to receive a payment from the Fred Alger Distribution Fund (hereinafter, "Fred Alger Fair Fund"), a Fair Fund established by the United States Securities and Exchange Commission ("SEC") as a result of the settlement of proceedings brought by the SEC in *In the Matter of Fred Alger Management, Inc. and Fred Alger & Company, Incorporated*, SEC Admin. Proc. File No. 3-12540 (collectively, "Respondents").

Your payment has been calculated based on information contained in the records of Respondents and third-party intermediaries. This payment is intended to compensate you for harm to your mutual fund investment(s) due to market timing and late trading ("Identified Conduct") in various mutual funds in the Alger Fund Group, including the Alger Fund ("Alger Fund portfolios" or "Alger Funds") during the period spanning from September 12, 2001 through October 15, 2003 (the "Relevant Period").

This Statement to Eligible Investors ("Statement") provides information to help you determine the U.S. federal income tax consequences of the distribution payment if you are a citizen or resident of the U.S. for U.S. federal income tax purposes.

**YOU SHOULD NOT RELY ON THIS STATEMENT AS TAX ADVICE.  
CONSULT YOUR TAX ADVISOR WITH RESPECT TO THE SPECIFIC TAX  
CONSEQUENCES OF THE DISTRIBUTION PAYMENT, INCLUDING THE  
EFFECTS OF U.S. FEDERAL, STATE, LOCAL AND NON-U.S. TAX RULES  
AND THE EFFECT OF POSSIBLE CHANGES IN LAWS.**

On January 18, 2007, the SEC issued an order instituting and simultaneously settling administrative and cease-and-desist proceedings against Respondents ("Order"). Pursuant to the Order, Respondents were required to pay disgorgement of \$30 million, plus a civil money penalty of \$10 million, for a total payment of \$40 million. The Order required Respondents to retain an Independent Distribution Consultant ("IDC") to develop a distribution plan ("Distribution Plan") for the distribution of monies ordered to be paid by Respondents, and any interest or earnings thereon, according to a methodology developed in consultation with Respondents and acceptable to the staff of the SEC and the independent Trustees of the Alger Funds. Respondents retained James C. Meehan, Vice President and head of the New York office of Cornerstone Research, to serve as the IDC.

On July 24, 2015, the SEC approved a Distribution Plan, which provides for distribution of the \$40 million in disgorgement and penalties paid by Respondents, plus accumulated interest. This amount, less taxes and fees paid

by the Qualified Settlement Fund described below, is available for distribution proportionately to accountholders of Alger Funds whose investments were harmed by the Identified Conduct (“Eligible Investors”).

The Fred Alger Fair Fund is a Qualified Settlement Fund (“QSF”) under the Internal Revenue Code. Damasco & Associates LLP (“Damasco”) was appointed by the SEC as the Tax Administrator for the Fred Alger Fair Fund. Damasco is now part of Miller Kaplan Arase LLP (“MKA”). MKA has participated in the preparation of this Statement, but is not providing services or advice to you or any other Eligible Investor receiving a distribution payment.

Some Eligible Investors may be subject to special tax rules, such as, without limitation, non-U.S. investors, investors who hold or held shares in a tax-qualified retirement plan or an individual retirement account (“IRA”) (except as specifically discussed below), or investors that are tax-qualified retirement plans. This Statement does not address the tax consequences under any state, local or non-U.S. tax laws, or the alternative minimum tax provisions of the Internal Revenue Code.

## **COMPONENTS OF THE DISTRIBUTION PAYMENT**

The Order provides that the Distribution Plan shall “provide for investors in Alger Fund portfolios during the period from September 12, 2001 to October 15, 2003 to receive, from the monies available for distribution, in order of priority, (i) proportionate share of losses suffered by Alger Fund portfolios due to market timing and late trading, and (ii) a proportionate share of advisory fees paid by Alger Fund portfolios that suffered such losses during the period of such market timing and late trading.”

Accordingly, your distribution payment is comprised of a “losses” component and an “advisory fee” component. The losses component represents your share of the impaired value of your Alger Funds shares<sup>1</sup> as a result of market timing and late trading activity. The advisory fee component represents your share of advisory fees that were paid to Respondents by the Alger Fund(s) that you held during the Relevant Period. These calculations were performed under the direction of the IDC. Each of these components is separately reported on the stub accompanying your check and has different tax consequences (discussed below).

### **A. Losses Component**

The losses component of your distribution payment is intended to compensate you for harm to the value of your investment in the Alger Fund(s) caused by the Identified Conduct. This harm has been measured by the IDC

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<sup>1</sup> References to “shares” throughout this Statement means shares you owned in the Alger Fund(s) to which your distribution payment relates during the Relevant Period.

based on the dilution in share price attributable to market timing activities in the Alger Funds. The losses component of your payment is not income to you to the extent it does not exceed your basis in the shares; however, you must adjust your basis downward by the amount of the payment (generally, your basis is the amount you paid for your shares). If the amount of the losses component exceeds your tax basis in your investment, then the excess is includable in your income as capital gain. Any such capital gain is long-term capital gain, unless you disposed of your investment before holding it for longer than one year.

*Example 1:* You have a basis of \$100 in your shares. The losses component of your distribution is \$10. You do not have gross income as a result of the losses component of your distribution *BUT* your basis is reduced to \$90 for purposes of determining gain or loss in the future (\$100 basis less \$10 losses distribution = \$90).<sup>2</sup>

*Example 2:* You have a basis of \$400 in your shares. The losses component of your distribution is \$1,000. You apply \$400 of the losses component to reduce your basis to zero for purposes of determining gain or loss in the future *AND* you include the remaining \$600 in income as taxable gain on your investment.

*Example 3:* You have sold all of your shares in the Alger Fund to which the distribution relates and the losses component of the distribution is \$1,000. Generally, you will include the \$1,000 in income as additional taxable gain from your shares. If you have sold only a portion of your shares in the Alger Fund, you should make a reasonable allocation of the distribution between the shares you have sold and the shares you retain. The portion allocated to the sold shares is treated as described in this Example 3 and the portion allocated to the retained shares is treated as described in Examples 1 and 2.

If you do not have reasonable access to records indicating the tax basis of your investment, then you should assume that your tax basis is zero and that the entire losses component of your payment is includable in your income as capital gain. Any such capital gain is long-term capital gain, unless you disposed of your investment before holding it for longer than one year.

**The Fred Alger Fair Fund will not issue a Form 1099 to you for the losses component of your distribution payment. The Fred Alger Fair Fund is not required to report the losses component of the distribution.<sup>3</sup>**

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<sup>2</sup> If you use the specific identification method of determining basis when shares are sold (as opposed to the dollar cost averaging method), your basis must be allocated among the shares in a reasonable manner.

<sup>3</sup> This conclusion is consistent with guidance from the Internal Revenue Service (“IRS”) with respect to payments to injured investors from Fair Funds established by the SEC in other proceedings involving market timing. For example, see the following IRS Private Letter Rulings

**Nevertheless, you should consult with your tax advisor as to how to report any portion of the losses component that is taxable to you as described in Examples 2 and 3.**

**B. Advisory Fee Component**

The advisory fee component of your distribution payment represents your share of advisory fees paid by the Alger Fund(s) during the Relevant Period. The advisory fee component *may* constitute ordinary income to you depending on several factors, including whether the Alger Fund(s) made a dividend payment taxable as ordinary income (as opposed to taxable as capital gain) in a year during the Relevant Period for which advisory fees are being returned.

The information on the chart attached as Annex A will assist you and/or your tax advisor in determining whether the advisory fee component of your distribution payment is taxable to you as ordinary income.

**1. Eligible Investors Who Continue to Hold Shares**

If you continue to hold your shares of a particular Alger Fund, you should first allocate the advisory fee component to the years at issue in a reasonable manner according to your holdings.

**a. Allocation to Year(s) that Eligible Investors Received Ordinary Income Dividend**

If you received a dividend payment taxable as ordinary income from an Alger Fund in the same year to which you have allocated advisory fees, that allocation of advisory fees will be taxable to you as ordinary income.

*Example 4:* You received a distribution payment with a \$100 advisory fee component and owned the same number of shares of the Alger Fund to which the distribution relates during each of the two (2) years covered by the proceeding, as shown in the chart attached as Annex A. It would be reasonable to allocate one-half (\$50) of the distribution payment to each of the

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(“PLRs”) obtained by the Tax Administrator in other proceedings: 200645008, 200645017, 200646010, 200701001, 200702006, 200702008, 200702009, 200702010, 200702011, 200702012, 200702048, 200703008, 200703009, 200703010, 200703034, 200712004, 200712005, 200722004 and 200722025. You may obtain copies of these PLRs from the IRS’ web site, [www.irs.gov](http://www.irs.gov). Although the QSF does not have a Form 1099 reporting obligation, such determination does not affect nor imply the tax consequence of a distribution payment *in the hands of an Eligible Investor*. The payments may, in whole or in part, constitute income, as discussed in Examples 2 and 3, even though no 1099s will be issued to Eligible Investors. Please note: there may be some circumstances in which the Fred Alger Fair Fund will issue information returns and will report payments to the IRS; however, these circumstances are beyond the scope of this Statement.

two years. Then, consult the chart to determine whether an ordinary income dividend was paid in the years to which you have allocated fees. If an ordinary income dividend was paid in a year to which you have allocated fees, the \$50 allocated to that year will be ordinary income in the year you receive the distribution from the Fred Alger Fair Fund.

b. Allocation to Year(s) that Eligible Investors Did Not Receive Ordinary Income Dividend

If you did not receive a dividend payment taxable as ordinary income from an Alger Fund in the same year to which you have allocated advisory fees, that allocation will be considered an adjustment to your basis to the extent of your basis in your shares, as described in Example 1. If that allocation exceeds your basis in your shares, then the excess is includable in your income as capital gain, as described in Example 2. Any such capital gain is long-term capital gain, unless you disposed of your investment before holding it for longer than one year.

If you do not have reasonable access to records indicating the tax basis of your investment, then you should assume that your tax basis is zero and that the entire advisory fee component that is not ordinary income is includable in your income as capital gain. Any such capital gain is long-term capital gain, unless you disposed of your investment before holding it for longer than one year.

2. Eligible Investors Who No Longer Hold Shares

If you have sold all your shares of a particular Alger Fund to which the distribution relates, the law is unclear as to how the advisory fee component should be treated. Assuming it is treated as described above (*i.e.*, in same manner as you would treat shares of the Alger Fund(s) you continue to own), you will first determine the amount to be treated as ordinary income and the amount that is treated as an adjustment to basis, as described in Examples 4 and 1. Then: (1) the amount treated as ordinary income under the Example 4 analysis will be included in ordinary income; and (2) the amount treated as an adjustment to basis under the Example 1 analysis will generally be treated as an additional gain from the sale of the shares.

If you have sold only a portion of your shares in the Alger Fund(s), the advisory fee component should be allocated in a reasonable manner between the sold shares and the retained shares.

*You should consult your tax advisor regarding the proper treatment of the advisory fee component if you have sold all or some of your shares.*

**The Fred Alger Fair Fund will not issue a Form 1099 to you for the advisory fee component of your distribution payment. The Fred Alger Fair Fund is not required to report the advisory fee component of the distribution.<sup>4</sup> Nevertheless, you should consult with your tax advisor as to how to report any portion of the advisory fee component that is taxable to you.**

### **SPECIAL ISSUES FOR INVESTMENTS HELD IN IRAS OR TAX-QUALIFIED RETIREMENT PLANS**

#### **A. Distributions to IRA Accounts**

**Please follow the applicable instructions below if you received a check that is associated with an IRA.<sup>5</sup>**

##### **1. For Checks Payable to the Custodian but Mailed to the Investor**

a. If you held some or all of your Alger Fund(s) shares through an IRA, in most cases the distribution check will have been made payable to your IRA custodian but mailed directly to you. You may choose to forward the check to your custodian with a letter of instruction or, to review your options, contact the Administrator of the Fred Alger Fair Fund (“Fair Fund Administrator”) at 1-888-558-4718.<sup>6</sup> You should deposit the check in your IRA account. **Caution:** If the check is cashed or deposited in any account other than an account eligible to receive the check, it may be subject to a 10% penalty and taxed as ordinary income in the year of receipt.

b. If your IRA custodian has changed, you may be able to transfer the payment to another custodian, or roll the payment over to another IRA or eligible account. Please contact the Fair Fund Administrator at 1-888-558-4718 to review your options. **Caution:** Please consult with your tax advisor because the rules related to transfers and rollovers are complicated and failure to comply with those rules could subject the payment to income tax and a 10% penalty.

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<sup>4</sup> See footnote 3.

<sup>5</sup> As a general rule, distribution payments from the Fred Alger Fair Fund received as a result of the investment held by your IRA do not constitute a “contribution” to your IRA for purposes of determining your maximum yearly contribution to your IRA.

<sup>6</sup> The IDC retained Rust Consulting to serve as the Administrator of the Fair Fund.

c. If you no longer hold your IRA, please contact the Fair Fund Administrator at 1-888-558-4718 to review your options.

2. For Checks Payable to the Investor and Mailed to the Investor

If the distribution check was made payable to you (as opposed to the custodian of your IRA) because of the way your account was registered in the records obtained for the distribution, please contact the Fair Fund Administrator immediately at 1-888-558-4718 to receive instructions to get a replacement distribution check made payable to the custodian of your IRA. Caution: If you cash the check, or deposit it in any account other than an account eligible to receive the check, it may be subject to a 10% penalty and be taxed as ordinary income in the year of receipt.

Additional information on this topic is available on the IRS web site, [www.irs.gov](http://www.irs.gov), Tax Topic 451 and Publication Number 590.

B. Distributions to Tax-Qualified Retirement Plans

1. Checks Mailed to Your Retirement Plan

If you held some or all of your Alger Fund(s) shares through a tax-qualified retirement plan, in most cases the distribution check was made payable and mailed to your tax-qualified retirement plan.<sup>7</sup> Plan fiduciaries are responsible for allocating these funds. Please contact your plan fiduciary if you have questions.

2. Checks Mailed to You

**Please follow the applicable instructions below if you received a check that is associated with a tax-qualified retirement plan.**

In limited instances, the distribution check was mailed to you and made payable to either: (i) your retirement plan; or (ii) you because of the way your account was registered in the records obtained for the distribution.

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<sup>7</sup> As a general rule, distribution payments from the Fred Alger Fair Fund received as a result of an investment held in or by your tax-qualified retirement plan do not constitute a “contribution” to your plan for purposes of determining your maximum yearly contribution to your plan or for purposes of determining your employer’s contributions to your plan.

a. For A Check Payable to Your Retirement Plan but Mailed to You

In some instances the check payable to your tax-qualified retirement plan was mailed to you because your address was the address of record. If *you* received a check made payable to your tax-qualified retirement plan, please follow the directions in i. or ii., below.

i. If you are still a participant in the tax-qualified retirement plan, contact your retirement plan trustee/administrator to coordinate the deposit of the check to your retirement plan.

ii. If you are no longer a participant in the tax-qualified retirement plan to which the distribution is directed, please contact the trustee/administrator of your former tax-qualified retirement plan to determine the appropriate course of action. If you have difficulty making contact with your former plan trustee/administrator, consult your tax advisor or contact the Fair Fund Administrator at 1-888-558-4718.

b. For a Check Payable to You and Mailed to You

Distributions with respect to investments held by a tax-qualified plan should not be payable to individual investors. If you received such a check, this is an error likely due to the data available for the distribution. If you received a distribution check made payable to you in connection with an investment held by your tax-qualified retirement plan, please contact the Fair Fund Administrator immediately at 1-888-558-4718.

Additional information on this topic is available on the IRS web site, [www.irs.gov](http://www.irs.gov), Tax Topic 558.



## **ANNEX A**

The chart below shows whether a particular Alger Fund made a dividend payment taxable as ordinary income in a particular year during the Relevant Period.

<b>ALGER FUND</b>	<b>CLASS</b>	<b>DIVIDEND TAXABLE AS ORDINARY INCOME</b>		
		<b>2001</b>	<b>2002</b>	<b>2003</b>
Balanced	A, B, C	Yes	Yes	No
Capital	All	No	No	No
Appreciation	All	No	No	No
Health Sciences	All	No	No	No
Large Cap Growth	All	No	No	No
Mid Cap Growth	All	No	No	No
Small Cap Growth	All	No	No	No