

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES ACT OF 1933
Release No. 10093 / June 8, 2016

ADMINISTRATIVE PROCEEDING
File No. 3-17281

<p>In the Matter of</p> <p style="text-align:center">Ethiopian Electric Power,</p> <p>Respondent.</p>
--

ORDER INSTITUTING CEASE-AND-DESIST PROCEEDINGS PURSUANT TO SECTION 8A OF THE SECURITIES ACT OF 1933, MAKING FINDINGS, AND IMPOSING A CEASE-AND-DESIST ORDER

I.

The Securities and Exchange Commission (“Commission”) deems it appropriate that cease-and-desist proceedings be, and hereby are, instituted pursuant to Section 8A of the Securities Act of 1933 (“Securities Act”), against Ethiopian Electric Power, formerly known as Ethiopian Electric Power Corporation (“EEP” or “Respondent”).

II.

In anticipation of the institution of these proceedings, Respondent has submitted an Offer of Settlement (“Offer”) that the Commission has determined to accept. Respondent admits the facts set forth in Section III below, acknowledges that Respondent’s conduct violated the federal securities laws, admits the Commission’s jurisdiction over Respondent and the subject matter of these proceedings, and consents to the entry of this Order Instituting Cease-and-Desist Proceedings Pursuant to Section 8A of the Securities Act of 1933, Making Findings, and Imposing 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 an unregistered securities offering conducted between 2011 and 2014 by EEP, an Ethiopian power utility. In order to help finance construction of a hydroelectric dam in Ethiopia, EEP offered and sold bonds to U.S. residents of Ethiopian origin. EEP offered the bonds in the U.S. through television and radio advertisements targeted at the Ethiopian diaspora community, and through events sponsored by the Embassy of Ethiopia (“Embassy”) in Washington, D.C. and in other major U.S. cities. EEP also offered the bonds

through the Embassy’s website. EEP did not register its bond offering with the Commission, and there was no available exemption from the requirement that the offering be registered. EEP’s unregistered offer and sale of securities in the U.S. violated Sections 5(a) and 5(c) of the Securities Act.

Respondent

1. **EEP** is a government-owned power utility headquartered in Addis Ababa, Ethiopia. It is the sole power producer and transmitter of electricity in Ethiopia and is constructing the Grand Ethiopian Renaissance Dam (“Dam”) on the Abay River in Ethiopia. EEP began construction of the Dam in April 2011. To help finance the project, EEP issued Grand Ethiopian Renaissance Dam Bonds, Millenium Corporate Bonds, and other bonds (the “Bonds”).

Background

2. From 2011 through 2014, EEP conducted an unregistered securities offering in the U.S. The purpose of the offering was to obtain funds to help finance construction of the Dam by selling Bonds. EEP solicited U.S. residents of Ethiopian origin to purchase the Bonds.

3. EEP offered the Bonds in marketing materials on the website of the Embassy in the U.S., and in a series of public road shows sponsored by the Embassy throughout the U.S. EEP marketed the Bonds at road shows in major U.S. cities including, for example:

Date of Road Show	Road show Location	Funds Raised or Pledged from Bond Sales
August 2011	Denver, CO	\$130,000
June 2012	Washington, DC	\$1,500,000
June 2012	Chicago, IL	\$110,000
April 2013	San Diego, CA	\$43,000
April 2013	Houston, TX	\$50,000
May 2013	New York, NY	\$100,000

It also offered the bonds through radio and television advertisements targeted at the Ethiopian diaspora community in the U.S.

4. In order to purchase the Bonds, investors were required to complete an application and to remit funds to the Commercial Bank of Ethiopia. The application, and a publication called “The Grand Renaissance Dam Bond Guidelines” (“Guidelines”), appeared on the Embassy’s website. The Guidelines described the terms of the Bond investments and stated, generally, that the offering proceeds would be used for Dam construction.

5. According to the Guidelines, purchasers of the Bonds (hereafter “Bondholders”) would receive interest payments every six months and the amounts of the interest payments would depend on the Bonds’ terms of maturity, as follows:

Bond Maturity Date (Years)	Interest Rate
5	LIBOR plus 1.25%
6-7	LIBOR plus 1.5%
8-10	LIBOR plus 2.0%

The Bond application contained blanks where investors could elect which of the Bonds they wished to purchase (by maturity date and interest rate). The application also directed investors to elect the method by which they wished to receive interest payments (*e.g.*, “credit my account number” or “pay me in cash at the bank’s counter”).

6. More than 3,100 U.S. residents purchased Bonds in denominations of \$5 to \$10,000, for total investments per investor ranging from \$50 to \$1 million. In aggregate, U.S. purchasers invested approximately \$5.8 million in the Bonds. Most of the investors—64%—reported that they were U.S. citizens. Although the Bonds generally have not yet reached maturity, to date most of the Bondholders have not received periodic interest payments.

7. EEP did not register its Bond offering with the Commission. It therefore (a) offered and sold securities, (b) using the mails or interstate means, where (c) no registration statement was filed or in effect as to the securities.

8. No exemption or safe harbor from registration was available to EEP.

9. Regulation D under the Securities Act contains rules governing limited offers and sales of securities in the U.S. without registration: Rule 504, Rule 505, Rule 506(b), and Rule 506(c).

10. The Rule 504 exemption generally applies where the aggregate offering price is \$1 million or less. The Rule 504 exemption did not apply to EEP’s offering because its aggregate price exceeded \$1 million.

11. The Rule 505 exemption requires, among other things, (a) that the aggregate offering price be no greater than \$5 million, (b) that there be no more than 35 non-accredited investors,¹ and (c) that the issuer not conduct a “general solicitation.”² The Rule 505 exemption

¹ Generally speaking, to be considered an accredited investor, a person must have a net worth that exceeds \$1 million or an income greater than \$200,000 for the two most recent years (or \$300,000 jointly with the person’s spouse) and a reasonable expectation of reaching the same income level in the current year.

² The term “general solicitation” is not defined in Regulation D. Examples of general solicitation are set forth in Rule 502(c) and include: (i) any advertisement, article, notice or other communication published in any newspaper, magazine, or similar media or broadcast over radio or television, and (ii) any seminar or meeting whose attendees have been invited by general

did not apply because (a) EEP's offering exceeded \$5 million, (b) there were more than 35 non-accredited investors, and (c) EEP conducted a general solicitation by broadcasting advertisements on television and radio, at public road shows, and on the Embassy's website.

12. The Rule 506(b) safe harbor requires that there be no more than 35 non-accredited investors and, because there were more than 35 non-accredited investors, the safe harbor did not apply.

13. The Rule 506(c) exemption became effective on September 23, 2013. While it allows for general solicitation, it requires that all investors be accredited and includes the express requirement that the issuer take "reasonable steps to verify" that purchasers are accredited. *See Eliminating the Prohibition Against General Solicitation and General Advertising in Rule 506 and Rule 144A Offerings*, Securities Act Release No. 33-9415, 78 Fed. Reg. 44771 (July 24, 2013). To the extent EEP offered and sold Bonds after Rule 506(c) became effective, the exemption did not apply because EEP did not take reasonable steps to verify whether any of the Bondholders were accredited.

14. No other exemption from registration or safe harbor applied to EEP's Bond offering in the U.S.

15. As a result of the conduct described above, EEP violated Sections 5(a) and 5(c) of the Securities Act, which prohibit, absent an exemption, any person, directly or indirectly, from making use of any means or instruments of transportation or communication in interstate commerce or of the mails to sell a security for which a registration statement is not in effect or to offer to sell a security for which a registration statement has not been filed.

Undertaking

16. Respondent has undertaken to provide a copy of this Order to each Bondholder.

IV.

In view of the foregoing, the Commission deems it appropriate to impose the sanctions agreed to in Respondent EEP's Offer.

Accordingly, pursuant to Section 8A of the Securities Act, it is hereby ORDERED that:

A. EEP shall cease and desist from committing or causing any violations and any future violations of Section 5 of the Securities Act.

solicitation. Using the internet generally involves general solicitation. *See Use of Electronic Media for Delivery Purposes* (Securities Act Release No. 33-7233), 60 Fed. Reg. 53458 (Oct. 6, 1995); *Use of Electronic Media* (Securities Act Release No. 33-7856), 65 Fed. Reg. 25843 (May 4, 2000).

B. EEP shall pay disgorgement and prejudgment interest as follows:

1. EEP shall pay a total of \$6,448,854.87 consisting of disgorgement of \$5,847,804 and prejudgment interest of \$601,050.87 (collectively, the “Disgorgement Fund”).

2. Within 30 days of entry of this Order, EEP shall deposit the full amount of the Disgorgement Fund into an escrow account at a U.S. financial institution that is acceptable to the Commission staff and shall provide the Commission staff with evidence of such deposit in a form acceptable to the Commission staff. The name of the escrow account shall contain the name and tax identification number of the qualified settlement fund. (*See* paragraph B.7.) If timely deposit of the Disgorgement Fund is not made, additional interest shall accrue pursuant to SEC Rule of Practice 600.

3. EEP shall be responsible for administering the Disgorgement Fund and shall retain an independent third party administrator (“Administrator”), acceptable to the Commission staff, to carry out the tasks of administering the distribution. The Administrator shall, based on the records of the Respondent, calculate payment amounts of principal investments for each Bondholder who purchased Bonds anytime from January 2011 through December 2014 plus any Bond interest owed on the date of entry of this Order (the “Calculation”) and shall make distribution payments to Bondholders. Bondholders may receive distribution payments from the Disgorgement Fund to redress investor harm up to a maximum of their principal loss plus interest owed to them if available funds exist. The costs and expenses of administering the Disgorgement Fund and compensating the Administrator shall be borne by EEP and shall not be paid out of the Disgorgement Fund.

4. Within 60 days of the entry of this Order, the Administrator shall submit a proposed distribution allocation (“Distribution Payment File”) to the Commission staff for review and approval. The proposed Distribution Payment File will include, to the extent available and reasonably ascertainable, (a) the name and contact information for each Bondholder; (b) the exact amount of the payment to be made to each Bondholder; and (c) a description of how the payment amount to each Bondholder was calculated. The Administrator also shall provide to Commission staff the Calculation and such additional information and supporting documentation as the Commission staff may request for the purpose of its review. In the event of one or more objections by the Commission staff to the proposed Distribution Payment File or to the Calculation or any of its information or supporting documentation, the Administrator shall submit a revised Distribution Payment File with a revised Calculation or additional information or supporting documentation for the review and approval of the Commission staff within 20 days of the date of notification of the objection, which revised Distribution Payment File and revised Calculation shall be subject to all of the provisions of this Subsection B.

5. The distribution of the Disgorgement Fund shall be made no later than within one year of entry of this Order. To the extent there are insufficient funds to fully repay Bondholders their principal investments and the Bond interest owed to them, the Administrator shall distribute the Disgorgement Fund *pro rata* based on the total payments of principal investment plus Bond interest. To the extent there are significant excess funds remaining in the Disgorgement Fund, upon review and approval of the Commission staff, the distribution of the Disgorgement Fund may be held open until two years from the entry of this Order.

6. If the Administrator is unable to distribute any portion of the Disgorgement Fund for any reason, including an inability to locate an affected Bondholder account or a beneficial owner in an affected Bondholder account or any factors beyond the Administrator's or EEP's control, the Administrator shall transfer any such undistributed funds to the Commission for transmittal to the United States Treasury. The Administrator may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request. Payment may also be made directly from a bank account or by credit card or debit card via Pay.gov through the SEC website at <http://www.sec.gov/about/offices/ofm.htm>. The Administrator may also pay by certified check, bank cashier's check, or United States postal money order payable to the Securities and Exchange Commission, which shall be delivered or mailed to:

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

and submitted under cover letter that identifies EEP as a Respondent in these proceedings, the file number of these proceedings, a copy of which cover letter and money order or check shall be sent to Nichola Timmons, Division of Enforcement, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-5631, or such other address the Commission staff may provide.

7. The Disgorgement Fund constitutes a Qualified Settlement Fund ("QSF") under section 468B(g) of the Internal Revenue Code ("IRC"), 26 U.S.C. § 468B(g), and related regulations, 26 C.F.R. §§ 1.468B-1 through 1.468B-5. EEP agrees to be responsible for all tax obligations of the QSF, including all the information return reporting associated with the distribution of the Disgorgement Fund, if any, and EEP may retain any professional services necessary. The costs and expenses of any such professional services shall be borne by EEP and shall not be paid out of the Disgorgement Fund.

8. Within 45 days after completion of the disbursement of all amounts in the Distribution Payment File, the Administrator shall submit to the Commission staff

for its approval a final accounting and certification of the disposition of the Disgorgement Fund, which shall be in a format to be provided by the Commission staff. The final accounting and certification shall include, but not be limited to: (a) the amount paid to each payee; (b) the date of each payment; (c) the check number or other identifier of money transferred; (d) the date and amount of any returned payment; (e) a description of any effort to locate a prospective payee whose payment was returned or to whom payment was not made for any reason; and (f) any amounts to be forwarded to the Commission for transfer to the United States Treasury. The Administrator shall submit proof and supporting documentation evidencing receipt of such payments by the Bondholders (whether in the form of cancelled checks, or otherwise) in a form acceptable to the Commission staff and under a cover letter that identifies EEP as a Respondent in these proceedings and the file number of these proceedings to Nichola Timmons, Division of Enforcement, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-5631, or such other address the Commission staff may provide.

9. After the final accounting is submitted to the Commission staff, the staff shall submit the final accounting to the Commission for approval and shall request Commission approval to send any undistributed amount to the United States Treasury.

10. The Commission staff may extend any of the procedural dates set forth in this Subsection B for good cause shown. Deadlines for dates relating to the Disgorgement Fund shall be counted in calendar days, except that if the last day falls on a weekend or federal holiday the next business day shall be considered to be the last day.

By the Commission.

Brent J. Fields
Secretary