**SUPREME COURT OF THE STATE OF NEW YORK**
**COUNTY OF NEW YORK**

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| KNOX COUNTY PENSION & RETIREMENT BOARD, KNOX CHAPMAN UTILITY DISTRICT, BEAUMONT FINANCIAL PARTNERS LLC, WILLIAM JACKSON, and EMILY E. COLE, individually on behalf of themselves and a class of similarly situated investors,<br><br>Plaintiffs,<br><br>v.<br><br>ALLIANZ GLOBAL INVESTORS U.S. LLC, ALLIANZ GLOBAL INVESTORS DISTRIBUTORS LLC, and ALLIANZ FUNDS MULTI-STRATEGY TRUST (n/k/a VIRTUS STRATEGY TRUST),<br><br>Defendants. | Index No.: 651233/2021<br><br>AMENDED CLASS ACTION COMPLAINT |

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1. Plaintiffs Knox County Retirement & Pension Board, Knox Chapman Utility District, Beaumont Financial Partners LLC, William Jackson, and Emily E. Cole ("Plaintiffs"), by their undersigned counsel, bring this action for violations of Section 11, Section 12(a)(2), and Section 15 of the Securities Act of 1933, 15 U.S.C. §§ 77k, 77*l*(a)(2), and 77(o) (the "Securities Act") against Defendants Allianz Global Investors U.S. LLC ("AGI US"), Allianz Global Investors Distributors LLC ("Allianz Distributor"), and the Allianz Funds Multi-Strategy Trust n/k/a Virtus Strategy Trust (the "Allianz Trust"). Plaintiffs bring these claims on behalf of a class of investors who purchased or otherwise acquired shares in four Allianz Global Investors Structured Alpha mutual funds (the "Structured Alpha Mutual Funds," or the "Mutual Funds," as further defined below) and were damaged thereby.

2. Plaintiffs allege the following upon personal knowledge as to themselves and their own acts, and upon information and belief as to all other matters. Plaintiffs' information and belief as to allegations concerning matters other than themselves and their own acts are based upon the investigation of Plaintiffs, including: (1) review and analysis of documents filed publicly by AGI US with the SEC or provided to investors in connection with the offering and sale of the relevant securities; (2) transcripts of Mutual Fund investor conference calls; (3) other publicly available sources as described below; (4) consultations with relevant experts and consultants; (5) the plea agreements, indictment, and other pleadings and evidence in *United States v. Allianz Global Investors U.S. LLC*, 22 Cr. 279 (CM) (S.D.N.Y.), *United States v. Stephen Bond-Nelson*, 22 Cr. 137 (PAE) (S.D.N.Y.), *United States v. Trevor Taylor*, 22 Cr. 149 (DLC) (S.D.N.Y.), *United States v. Gregoire Tournant*, 22 Cr. 276 (LTS) (S.D.N.Y.), *Securities and Exchange Commission v. Gregoire P. Tournant, et al.*, No. 1:22-cv-4016 (LLS) (S.D.N.Y.), and Order Instituting Administrative Proceedings, *In re Matter of In re Allianz Global Investors U.S. LLC*, File No. 3-

20855, among others. Plaintiffs' investigation into the factual allegations contained in this complaint is continuing, and many of the relevant facts are known only by Defendants or are exclusively within their custody or control. Plaintiffs believe that substantial additional evidentiary support will exist for the allegations in this complaint after a reasonable opportunity for discovery.

## I. INTRODUCTION

3. This case arises out of what the U.S. Department of Justice and the U.S. Securities and Exchange Commission have described as a "massive fraudulent scheme that concealed the immense downside risks of a complex options strategy" and "an egregious, long-running and extensive fraud that went undetected for years." As it has now admitted, Defendant AGI US, for years, "willfully" and criminally violated the federal securities laws, and violated its fiduciary duties and its basic oversight and other obligations under the Investment Advisers Act in connection with its "Structured Alpha" series of private investment funds (the "Structured Alpha Funds").

4. The Structured Alpha Funds were managed by Gregoire Tournant, Stephen Bond-Nelson, and Trevor Taylor—three portfolio managers AGI US touted as having years of experience and a strong track record of carefully managed returns. AGI US told investors that Tournant, Bond-Nelson, and Taylor managed the Structured Alpha Mutual Funds to "generate steady, risk-managed returns that are generally independent of market conditions" while utilizing options-based hedging to "protect[] . . . from a significant market decline," "significantly protect [to] the downside," and "protect . . . against short-term market dislocations." To implement these protections, the Structured Alpha Mutual Funds were supposed to employ substantial hedges consisting of long put options positions set up 10-25% below current market levels, which supposedly would protect the portfolio in the event of a significant market decline. AGI US and

the Structured Alpha portfolio managers also assured investors that AGI US would provide substantial oversight over the Structured Alpha Funds.

5. These core features and the conservative investment objectives of the Mutual Funds were critical to investors. Indeed, market analysts from Morningstar highlighted these very features of the Structured Alpha Mutual Funds in applauding the "team's disciplined focus on risk management" including "perennial crash protection through put option hedges," and took comfort in the fact that AGI US "perform[ed] a daily quantitative risk analysis, which includes a variety of stress tests." Morningstar also praised AGI US's "independent risk management function [which] oversees the structured alpha platform, monitoring daily trading activity," noting that the Mutual Funds "benefit[ted] from Allianz Global Investors' independent risk oversight with real-time positioning monitoring."

6. But as AGI US has now admitted, in reality, Tournant, Bond-Nelson, Taylor, and their team (the "Structured Products Group") abandoned the promised conservative approach—and instead pursued a high-risk strategy that lacked any meaningful downside protection whatsoever. In connection with their leadership of the Structured Products Group, Bond-Nelson and Taylor have pled guilty to criminal charges for defrauding Structured Alpha investors, and Tournant has been indicted on similar charges. Specifically, by at least 2015 and continuing into 2020, instead of employing the well-hedged approach promised to investors, the Department of Justice stated that "Tournant and his co-conspirators lied to investors and secretly exposed them to substantial risk in order to line their own pockets and those of" Allianz. Although they were required to position the hedges 10-25% below current market levels, those hedges were costly—and would have affected the Mutual Funds' returns and significantly reduced the Structured Products Group's management and performance fees. In order to reduce those costs and increase

their own compensation, the Structured Products Group decided to utilize "cheaper" hedges that were much further than 25% out-of-the-money—positions that were far too out-of-the-money to provide any meaningful downside protection.

7. AGI US and the Structured Products Group never disclosed these changes to investors. Instead, to conceal the fact that the Funds were not being managed as promised, the Structured Products Group engaged in fraud by doctoring risk reports, lying about the Funds' returns, and making numerous, repeated false and misleading representations to investors. Further, and as AGI US has now admitted, independent of the criminal fraud carried out by the Structured Products Group, AGI US's compliance and oversight failures "contributed to investor losses due to the scheme."

8. In March 2020, following the onset of market dislocations brought on by the COVID-19 pandemic, AGI US's abandonment of the Structured Alpha Mutual Funds' stated investment strategy, and the core hedging positions that were supposed to be the cornerstone of the Structured Alpha strategy, were revealed as the Funds collapsed. The same criminal misconduct by AGI US and of the three managers of the Mutual Funds, caused the losses Plaintiffs and the Mutual Fund investors incurred.

9. As AGI US has further admitted, after the Structured Alpha Funds experienced disastrous losses in the first quarter of 2020, it learned in March 2020 that the Structured Alpha team had sent doctored reports to investors. But rather than taking appropriate steps to hold the managers of the Mutual Funds accountable—all of whom have either now plead guilty to securities fraud or are under indictment—AGI US deceived investors about the causes of the Mutual Funds' losses and liquidated the Mutual Funds.

10. Plaintiffs bring this action on behalf of themselves and other investors in the Structured Alpha Mutual Funds to recover the losses suffered as result of AGI US's admitted criminal fraud and the false and misleading representations alleged herein.

## II. JURISDICTION AND VENUE

11. The claims asserted in this Complaint arise under Sections 11, 12(a)(2), and 15 of the Securities Act (15 U.S.C. §§ 77k, 77*l*(a)(2), and 77(o)). This Court has jurisdiction over the subject matter of this action under the New York Constitution, Article VI, Section 7(a), and Section 22 of the Securities Act (15 U.S.C. § 77v), pursuant to which "[e]xcept as provided in section 16(c), no case arising under this title and brought in any State court of competent jurisdiction shall be removed to any court in the United States." Section 16(c) of the Securities Act refers to "covered class actions," which are defined as lawsuits brought as class actions or brought on behalf of more than fifty persons asserting claims under state or common law. This action asserts federal law claims. Thus, it does not fall within the definition of a "covered class action" under Section 16(c) and therefore is not removable to federal court under the Securities Litigation Uniform Standards Act of 1998 or otherwise. In addition, as the Supreme Court of the United States explained in *Cyan, Inc. v. Beaver County Employees Retirement Fund*, 138 S. Ct. 1061 (2018), state courts have concurrent jurisdiction with federal courts over claims based on alleged violations of the Securities Act.

12. The Court has personal jurisdiction over each of the Defendants, and venue is proper in this County, under Section 22 of the Securities Act and C.P.L.R. Sections 301 and 302. In addition, numerous Mutual Fund shares were acquired by Class members who reside in this County.

13. The amount in controversy exceeds the jurisdictional minimum of this Court, and the total amount of damages sought exceeds $25,000.

14. Venue in New York County is proper pursuant to C.P.L.R. §§ 503(a) and (c) because it is the location of AGI US's principal place of business.

## III. PARTIES

15. Plaintiff Knox Chapman Utility District ("KCUD") is a municipal corporation headquartered in Knoxville, Tennessee. KCUD purchased shares of the AllianzGI Structured Return Fund pursuant or traceable to, and whose investment was successfully solicited through, the Offering Communications (defined below) and was damaged thereby.

16. Plaintiff Knox County Pension & Retirement Board ("Knox County") is the administrator of the Knox County Pension & Retirement System and is headquartered in Knoxville, Tennessee. Knox County purchased shares of the AllianzGI Structured Return Fund pursuant or traceable to, and whose investment was successfully solicited through, the Offering Communications (defined below) and was damaged thereby.

17. Plaintiff Beaumont Financial Partners LLC ("Beaumont") is a registered investment advisor headquartered in Needham, Massachusetts. Beaumont purchased shares of the AllianzGI Structured Return Fund pursuant or traceable to, and whose investment was successfully solicited through, the Offering Communications (defined below) and was damaged thereby.

18. Plaintiff William Jackson purchased shares of AllianzGI PerformanceFee Structured US Equity Fund pursuant or traceable to, and whose investment was successfully solicited through, the Offering Communications (defined below) and was damaged thereby.

19. Plaintiff Emily E. Cole purchased shares of the AllianzGI PerformanceFee Structured US Equity Fund pursuant or traceable to, and whose investment was successfully solicited through, the Offering Communications (defined below) and was damaged thereby.

20. Defendant Allianz Global Investors U.S. LLC ("AGI US") is a limited liability company formed and existing under the laws of the State of Delaware. At all relevant times, AGI

US was a registered investment adviser under the Investment Advisers Act of 1940 with its principal office in New York, New York. At all relevant times, AGI US (and its corporate predecessors) served as the investment manager of the four mutual funds at issue in this litigation ("Mutual Funds")—the AllianzGI Structured Return Fund ("Structured Return Fund"), the AllianzGI U.S. Equity Hedged Fund ("U.S. Equity Hedged Fund"), the AllianzGI PerformanceFee Structured US Equity Fund ("PerformanceFee Equity Fund"), and the AllianzGI PerformanceFee Structured US Fixed Income Fund ("PerformanceFee Fixed Income Fund," and together with the PerformanceFee Equity Fund, the "PerformanceFee Funds").

21. Defendant Allianz Global Investors Distributors LLC ("Allianz Distributors") was identified as the principal underwriter of each class of the Mutual Funds' shares. At all relevant times, Allianz Distributors was a Delaware LLC whose sole member was Allianz Global Investors U.S. Holdings LLC, which was the sole member and 100% owner of Defendant Allianz.

22. Defendant Allianz Funds Multi-Strategy Trust n/k/a Virtus Strategy Trust (the "Trust" or the "Allianz Trust") is a Massachusetts trust and was the issuer of the Mutual Funds' shares purchased by Plaintiffs and the Class.

## IV. NON-PARTY STRUCTURED PRODUCT GROUP MANAGERS

23. Gregoire Tournant ("Tournant") is a dual French-American citizen who resided in New York and then Florida and who served as the Chief Investment Officer of the Structured Products Group. Tournant also sat on the AGI US's Executive Committee from March 2017 through 2019, until the Committee was dissolved. From 2015 through 2019, Tournant was either AGI US's highest or second-highest compensated employee.

24. The Structured Alpha Funds were also managed by fellow portfolio managers Trevor Taylor ("Taylor") and Stephen Bond-Nelson ("Bond-Nelson"). By 2020, the Structured Products Group, which managed the Structured Alpha Funds and which Tournant, Bond-Nelson,

and Taylor led, managed over $11 billion in assets and accounted for approximately 25% of AGI US's revenues.

## V. THE STRUCTURED ALPHA MUTUAL FUNDS

25. The Mutual Funds were part of AGI US's Structured Alpha series of investment funds, all of which followed a similar three-part "alpha" options-trading strategy (described below).

26. The Structured Return Fund was created in 2012, and was purportedly designed to "generate steady, risk-managed returns that are generally independent of market conditions" by employing "option positions" that were "expected to generate income for the Fund, while significantly limiting the Fund's exposure to broader securities market movements." At all relevant times, the Offering Communications (defined below) identified AGI US as the "Investment Manager" of the Structured Return Fund, while Greg Tournant was identified as lead portfolio manager and Trevor Taylor and Stephen Bond-Nelson as portfolio managers for the Structured Return Fund, all based on their explicit consent to be included in the Offering Communications. AGI US received performance-based compensation for managing the Structured Return Fund, earning fees only after the fund reached a threshold of performance in excess of its benchmark, the S&P 500.

27. The U.S. Equity Hedged Fund was also created in 2012, and was purportedly "intended to promote the protection of capital during unfavorable market conditions." Among other things, as described in the U.S. Equity Hedged Fund's prospectus, the fund was supposed to "utilize (buy) equity index put options (long puts) on U.S. equity indexes with the purpose of protecting the Fund from a significant market decline." As further set forth in the prospectus, "[t]he long puts are designed to significantly protect the downside of the Fund's long equity portfolio, which means that the notional value may be roughly equal to or may significantly exceed

the full value of the Fund's long equity portfolio." Indeed, the U.S. Equity Hedged Fund's prospectus cautioned that it would so thoroughly protect the portfolio that "the Fund generally will not be able to offset the full cost of the 'protection' it is seeking and must keep significant cash and cash equivalents available, and therefore the Fund may underperform the S&P 500 Index during periods of market increases and slight market decreases." At all relevant times, the Offering Communications identified AGI US as the "Investment Manager" of the U.S. Equity Hedged Fund, while Greg Tournant was identified as the lead portfolio manager and Trevor Taylor and Stephen Bond-Nelson were identified as portfolio managers, all based on their explicit consent to be included in the Offering Communications. AGI US received performance-based compensation for managing the U.S. Equity Hedged Fund, earning fees only after the fund reached a threshold of performance in excess of its benchmark, the S&P 500.

28. The PerformanceFee Equity Fund was created in 2017, and was purportedly designed to "maintain[] long exposure to the U.S. equity market while employing an option overlay strategy that has the potential to enhance returns and/or control risk." The PerformanceFee Equity Fund summary prospectus described its Principal Investment Strategy in part as follows:

> The Fund's option overlay strategy consists primarily of three option position types, which will typically involve options on equity and volatility indices: (i) "range-bound" spreads, (ii) "directional" spreads and (iii) a "hedging" position type. A range- bound spread typically consists of selling a call and a put with a breakeven level of the zone being informed by proprietary statistical analysis. A range-bound spread is intended to be successful when the underlying index for the options trades within a specified range over a given timeframe. A directional spread typically consists of call spreads or put spreads that are designed to be successful when the index makes a larger-than-normal move to either the upside or the downside. <u>The option portfolio's hedging positions typically consist of long out-of-the-money puts that are intended primarily to protect the option portfolio against short-term market dislocations</u>.

At all relevant times, the Offering Communications identified AGI US as the "Investment Manager" of the PerformanceFee Equity Fund, while Greg Tournant was identified as the lead

portfolio manager and Trevor Taylor and Stephen Bond-Nelson were identified as portfolio managers, all based on their explicit consent to be included in the Offering Communications.

29. The PerformanceFee Fixed Income Fund was also created in 2017, and was purportedly designed to "maintain[] long exposure to the U.S. fixed income market while employing an option overlay strategy that has the potential to enhance returns and/or control risk." The PerformanceFee Fixed Income Fund summary prospectus described its Principal Investment Strategy in part as follows:

> The Fund's option overlay strategy consists primarily of three option position types, which will typically involve options on equity and volatility indices: (i) "range-bound" spreads, (ii) "directional" spreads and (iii) a "hedging" position type. A range- bound spread typically consists of selling a call and a put with a breakeven level of the zone being informed by proprietary statistical analysis. A range-bound spread is intended to be successful when the underlying index for the options trades within a specified range over a given timeframe. A directional spread typically consists of call spreads or put spreads that are designed to be successful when the index makes a larger-than-normal move to either the upside or the downside. <u>The option portfolio's hedging positions typically consist of long out-of-the-money puts that are intended primarily to protect the option portfolio against short-term market dislocations</u>.

At all relevant times, AGI US was identified in the Offering Communications as the "Investment Manager" of the PerformanceFee Fixed Income Fund, while Greg Tournant was identified as lead portfolio manager and Trevor Taylor and Stephen Bond-Nelson were identified as portfolio managers, all based on their explicit consent to be included in the Offering Communications.

30. The prospectus for the PerformanceFee Funds explained that, as to each, "[t]he Fund's portfolio managers generally seek to optimize the Fund's option overlay strategy based on considerations that include . . . structural risk protections[.]"

31. AGI US launched the PerformanceFee Funds in 2017 in order to combat the flow of investor money into passive funds, which historically had charged lower management fees. As Andreas Utermann, AGI US's CEO, explained in an interview with *Financial Times*, "[t]he flows

into ETFs have been very significant and by definition most are passive. We want to turn the tables. The industry has not responded aggressively enough to this threat and we're starting to do that."

32. As the SEC has explained, in enacting the Investment Advisers Act of 1940 (the "Advisers Act"), Congress generally prohibited "performance compensation or performance fees" for Advisers Act funds because it believed that such arrangements "might encourage advisers to take undue risks with client funds to increase advisory fees." To get around these rules while still charging higher fees for outperformance, AGI US utilized "fulcrum" compensation arrangements for the PerformanceFee Funds that would bring "minimum fees close to zero" in the event the Funds failed to outperform their benchmarks. Specifically, AGI US would not charge a management fee for the PerformanceFee Funds in the event the Funds failed to outperform their benchmark index in the trailing 12-month period, but charged higher management fees in the event the Funds performed well. As Utermann explained in the *Financial Times* in describing the launch of AGI US's performance fee funds, AGI US viewed this as "a very attractive potential offering for retail clients to do what institutional clients have been doing for decades."

33. Tournant, Taylor, Bond-Nelson, and others in the Structured Products Group authored the descriptions of the Mutual Funds' investment strategies that were included in the Offering Communications (defined below). They also actively participated in marketing and solicitation of investments in the Mutual Funds, including by presenting to investors in meetings and/or on phone or video calls, and by making statements concerning the Mutual Funds' strategies that were posted to AGI US's website and elsewhere that were intended to be used, and were used, to offer and solicit investments in the Mutual Funds from Plaintiffs and the members of the Class.

## VI. AGI US'S STRUCTURED ALPHA STRATEGY

34. AGI US applied a similar investment strategy to all of the Structured Alpha Funds, including the Mutual Funds. In prospectuses, the Allianz Trust described the performance of the PerformanceFee Funds and the Structured Return Fund as similar to the private Structured Alpha funds (including the Structured Alpha U.S. Equity 250) because they had "substantially similar investment objectives, policies, strategies, risks and investment restrictions." Conversely, investment consultants told clients in the private Structured Alpha Funds that they could get a sense for how those funds were performing by analyzing the performance of the publicly-traded Mutual Funds' shares.

35. Each of the Structured Alpha Funds was supposed to follow the performance of a specific benchmark (such as the S&P 500) that varied from fund to fund while also outperforming its benchmark by a certain amount, regardless of broader market movements, using an "alpha" options-trading strategy. Thus, each fund was intended to track the ups and downs of passively investing in its particular index, but to outperform that index by layering on uncorrelated "alpha" performance. The degree to which the particular fund was supposed to outperform its benchmark—i.e., its "alpha" target—varied from fund to fund, thus allowing investors the option to choose varying levels of expected "alpha" returns while accepting corresponding levels of risk.

36. The uncorrelated "alpha" returns were to be generated by means of an options-trading strategy that was common across all of the Structured Alpha Funds, including the Mutual Funds. This options trading strategy had three components. The first component was the so-called "Range-Bound Spreads." This set of trades effectively involved using options to sell insurance against the market moving up or down to a price level outside of a range around current prices. The Structured Alpha Funds would collect premiums without making payouts—thus profiting on the Range-Bound Spreads—if the market stayed within a certain range of current market prices.

Historically, the Range-Bound Spreads provided the lion's share of the Structured Alpha Funds' positive returns.

37. The second component of the options trading strategy included a set of "Directional Spread" trades. These trades were supposed to provide profit opportunities if the market moved up or down outside of the profit range of the Range-Bound Spreads over the course of multi-week periods.

38. Finally, the third component of the options trading strategy was a series of hedges that were intended to protect against a market crash. As Morningstar explained with respect to the Structured Return Fund, "the fund buys laddered put options struck from 10% to 25% out-of-the-money matching the maturity of the sold options," which "aims to protect the fund's downside in unexpected turbulence." These positions would appreciate in the event of a significant market decline—thus offsetting losses from the other parts of the options trading strategy when such declines occurred, such as payouts on the insurance AGI US sold through the Range-Bound Spreads. Critically, even though the hedge positions would create expense—and thus be a drag on profits—in normal circumstances when significant declines were not occurring, AGI US committed to <u>always</u> keep them in place to protect the Structured Alpha Funds, calling them a "cornerstone" of the strategy.

39. As described in the Mutual Funds' prospectuses, AGI US purportedly designed the Mutual Funds as a means for investors to achieve returns in a variety of market environments while enjoying substantial protections in the event that the market suffered substantial declines. For example, Tournant touted the Structured Alpha Funds' "market neutral" approach in an October 2015 video presentation, telling investors that the Structured Alpha Funds had generated "consistent returns over the past ten years"—a period including the 2008 financial crisis and the

so-called "Great Recession"—and performed well "regardless of market conditions," as the positions were designed to generate returns whether the market was "up, flat or down." Tournant explained that prudent, active management of the portfolio had enabled the Structured Alpha Funds to "weather the [recent] storm" following a substantial "increase in market volatility" in October 2015 by being "able to manage actively our profit zone."

40. Similarly, in a May 2016 interview that was featured on AGI US's website, Tournant spoke at length about the risk-mitigating features that were supposed to be inherent in AGI US's investment strategies for the Structured Alpha Funds. When asked about the risk management strategy for the Structured Alpha Funds, Tournant said:

> The way we construct the strategy is we have a wide range of positions. Some positions are designed to make money if the market goes up, some will make money if the market goes down and some will make money if the market is in range bound. They exist in the portfolio all the time so therefore our objective is never to guess the direction of the market, not be dependent on the direction of the market, and hopefully we have a statistical outcome that will allow us to generate profits regardless of market directions.

41. Analogizing the Structured Alpha Funds' strategies to the functioning of an insurance company that would have to pay out only when there is a "catastrophic event," Tournant continued, explaining that the portfolios were, in fact, protected even in such events: "I would also add the fact that given the positions that we buy to protect ourselves against those catastrophic shocks, those kinds of risk insurance positions, that you could label those as reinsurance." That is, even if a large market downturn were to occur, Tournant explained that the Structured Alpha Funds had "risk insurance positions" that would "further protect [the] portfolio and business."

42. Similarly, in a January 2017 interview for *BrightTALK* about the Structured Return Fund, Peter Pilavachi, an AGI US Product Specialist, explained:

> The options strategies work as follows. What we do is that we go long and short options at the same time. The idea is that the long options protect our portfolio, whereas our short option position help[s] us generate yield that goes towards our

> performance. . . . What is clearly our differentiating factor is that we're long options, on the one hand, and we're short options, on the on the other hand. Again, we are long options to hedge our portfolio on the downside, and we're short options to generate yield at the same time—and the important word in the sentence is 'at the same time, at all times.' I think that really is what differentiates us, this long and short. The pitfalls with this strategy is always about risk. We really see ourselves as risk managers first. As managers of a volatility strategy, we want to be protected in case the market goes down. . . . Risk control for us is a major part of the way we manage our assets. We have several ways of controlling our risks, but the two major ones is [sic] that we long puts to protect our portfolio at all times—that's probably the most important way—the second [inaudible] of that is that, if the market goes against us, we will systematically restructure, we'll never let our losses run.

43. The AGI US Structured Products Group articulated the Structured Alpha strategy as described above, highlighting both the hedging positions that were supposedly a "cornerstone" of the strategy and the protection provided by AGI US's robust risk management and oversight, in marketing materials and numerous in-person presentations to analysts and other third-party investment professionals responsible for distributing the Mutual Funds. For example, after reviewing these marketing materials and meeting with the Structured Products Group, Morningstar analysts recommended the AllianzGI Structured Return Fund as benefitting from the "broader resources at Allianz Global Investors," including the "firm's independent risk management function [which] oversees the structured alpha platform, monitoring daily trading activity." According to Morningstar, the "team's disciplined focus on risk management—through limits on leverage, perennial crash protection through put option hedges, position diversity across expirations, and the managers' ability to adjust the risk profile during volatile markets—gives us confidence this strategy can continue to overcome such short-term setbacks" such as those that can accompany unexpected volatility spikes. Critical to that risk management analysis was Morningstar's observation that the Structured Alpha Funds team not only "performs a daily quantitative risk analysis, which includes a variety of stress tests" but "benefits from Allianz Global Investors' independent risk oversight with real-time positioning monitoring."

44. Indeed, AGI US and Allianz Distributors have publicly acknowledged their responsibility to act as fiduciaries to the Mutual Funds' investors. In codes of conduct filed from at least 2013 onwards, AGI US and Allianz Distributors acknowledged that its employees "owe[d] a fiduciary duty to the shareholders of the registered investment companies" and that "[o]ur investment advisers owe a fiduciary duty to the Clients"—including Mutual Fund shareholders—"for which they serve as an adviser or sub-adviser." Each also acknowledged that they were required to "reasonably supervise" their employees "with a view toward preventing violations of law and violations of" the code of conduct.

## VII. THE GUILTY PLEAS, TOURNANT'S INDICTMENT, AND AGI US AND THE STRUCTURED ALPHA PORTFOLIO MANAGERS' ADMISSIONS

45. Following the collapse of the Structured Alpha Funds, the U.S. Securities and Exchange Commission (the "SEC") and the U.S. Department of Justice (the "DOJ") began investigating AGI US, Tournant, Bond-Nelson, and Taylor in connection with their leadership of the Structured Products Group.

46. On May 17, 2022, the DOJ and SEC unsealed agreements to plead guilty to securities fraud entered into by AGI US, Bond-Nelson, and Taylor. That same day, the DOJ unsealed a grand jury indictment charging Tournant with securities fraud, investment adviser fraud, and obstruction of justice (the "Tournant Indictment") and announced that Tournant had surrendered to authorities and was expected to be presented later in the day.

47. In connection with their guilty pleas, AGI US, Bond-Nelson, and Taylor "admitted to . . . defrauding investors over multiple years, concealing losses and downside risks of a complex strategy, and failing to implement key risk controls." In sum and substance, they admitted to exposing the Structured Alpha Funds to far greater risks, with significantly less protection, than had been promised to investors. In an effort to conceal the Structured Alpha Funds' departure

from its stated investment mandate, AGI US engaged in numerous criminal acts—including doctoring risk reports and stress tests results, lying about the Structured Alpha Funds' historical performance, and manipulating position data shared with investors and analysts like those from Morningstar—to mislead investors about Structured Alpha's true risks. For its part, AGI US also admitted that it had, for years, violated the Investment Adviser's Act, failed to comply with its basic duties as an Investment Adviser or provide any meaningful oversight over the Structured Alpha Products Group, and agreed to sanctions that disqualified AGI US from providing investment advisory services to U.S. registered investment funds—i.e., the Structured Alpha Mutual Funds—for the next decade.

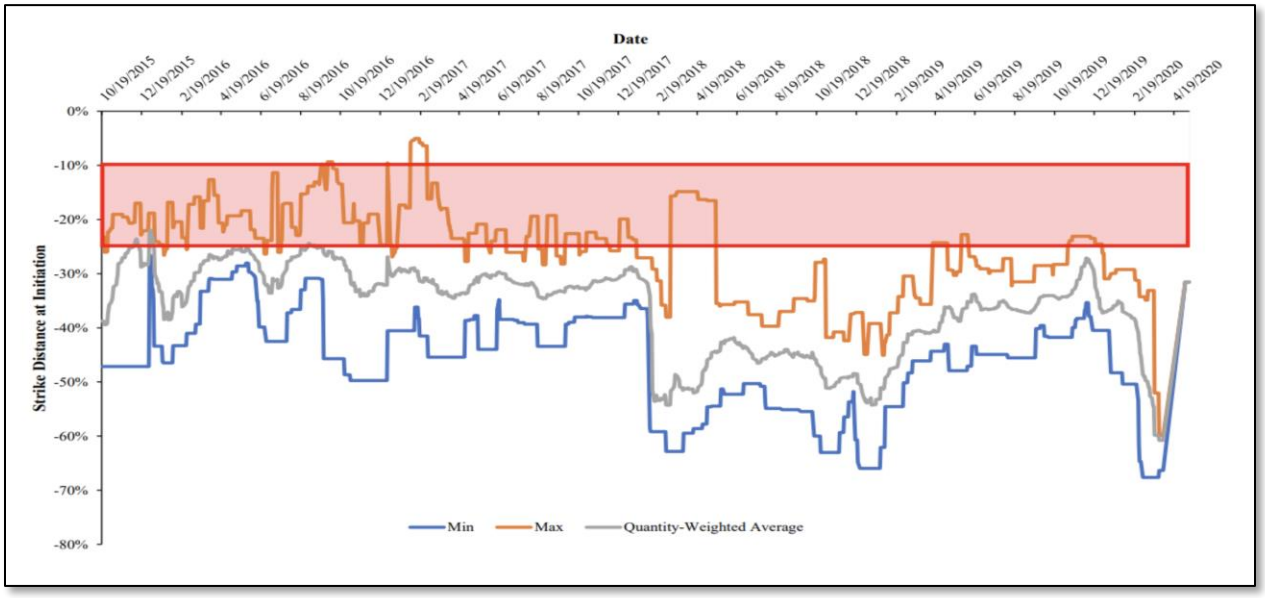
### A. AGI US And The Structured Alpha Portfolio Managers Exposed The Funds To Massive Risks

48. As AGI US admitted in its criminal plea, AGI US and the Structured Alpha portfolio managers repeatedly misled investors about the core features of the Structured Alpha strategy—and in particular, that investors would be protected against market crashes. Specifically, from at least 2015 through 2020, AGI US had "consistently represented to investors in marketing materials that it would purchase hedges for the Funds that were -10 to -25% 'out-of-the-money' to protect the portfolio against an overnight crash, as well as a short-term equity-market crash, typically defined as a decline of 10 to 15% in less than 5 days." Similar representations, including that the Mutual Funds would pursue a "market neutral" strategy, were made to investors, or their advisors, in connection with the offering and sale of the Mutual Funds. But AGI US admitted in its plea agreement that, around the same time, it was purchasing hedges that were far further out-of-the-money and "cheaper"—and accordingly "less protective in the event of a market downturn."

49. Indeed, the Structured Alpha portfolio managers utilized these less-effective hedges precisely because they saved costs—which boosted the Funds' profitability (and thus AGI US and

the portfolio managers' performance and management fees). As set forth in the Tournant Indictment, in or about late 2015, after the cost of implementing the promised hedges had increased and was threatening the Structured Alpha Funds' ability to provide the returns investors were expecting, Tournant "expressed anger and frustration with [Taylor] and [Bond-Nelson] for spending too much of the Funds' money on hedging positions" and instructed Taylor to purchase cheaper hedges that were further out-of-the-money. But, this change was never disclosed to investors. In 2018, changes in market conditions caused hedging costs to increase further, and again, the Structured Alpha portfolio managers responded by moving the hedges even further out-of-the-money, making them less protective still.

50. Indeed, as set forth in the SEC's complaint against Tournant, Bond-Nelson, and Taylor, the Structured Alpha Funds' hedges were largely outside the -10 to -25% range from late 2015 onwards, with a marked further shift further out-of-the-money starting around early 2018:



### B. AGI US And The Structured Alpha Portfolio Managers Hid The Funds' Risks From Investors

51. As AGI US has now admitted, the Structured Alpha portfolio managers deceived Structured Alpha investors in order to hide that AGI US was utilizing cheaper and less effective hedges and were taking other risks contrary to AGI US's representations about the Structured Alpha Funds' strategies. AGI US admitted that the Structured Products Group "willfully," actively and knowingly departed from the same stated investment objectives and strategies that were described in the Mutual Fund prospectuses and otherwise disclosed to the Mutual Funds investors, who are the direct victims of the wrongful acts admitted to in the plea agreements.

52. First, AGI US has admitted that the Structured Alpha portfolio managers doctored positional and attribution data reported to current and prospective investors in order to make the portfolio appear less risky and to make it seem that the Structured Alpha Funds were spending more than they actually were to protect against downside risk. For example, before certain investor meetings, Tournant and Taylor altered spreadsheets that purported to show the portfolio's open positions to make it seem as if the portfolio was less risky than it really was. For example, on one occasion, Taylor changed data to show that a hedge was less than 25% out-of-the-money when it was actually more than 45% out-of-the-money. Because closer-to-the-money hedges provide better protection in the event of a market decline, these alterations made the portfolio seem less risky and better protected than it actually was. On other occasions, Tournant simply removed certain positions from the spreadsheet to conceal risks. And on at least one occasion, Tournant manually altered positions data—including by changing short positions to long positions, changing quantities of securities, and changing position descriptions to make certain transactions appear to be part of the portfolio's hedge—in order to make the portfolio appear better-protected than it actually was. And Tournant also altered data showing the attribution of returns to the three prongs

of the options overlay to make it seem as if the portfolio was employing expensive, effective hedges, rather than the cheap and ineffective ones that were actually used.

53. Second, the Structured Alpha portfolio managers manually altered risk reporting, again to conceal and understate the Structured Alpha Funds' true risks. AGI US affiliate IDS generated daily risk reports containing the results of "stress tests," which were tests that purported to estimate the effects on portfolio returns of various one-day changes in the equity and volatility markets. Indeed, this very independent stress testing and "independent risk management function [which] oversees the structured alpha platform, monitoring daily trading activity" was repeatedly highlighted by Morningstar in its assessments of the Mutual Funds, which noted that Mutual Fund investors "benefit[ted] from Allianz Global Investors' independent risk oversight with real-time positioning monitoring."

54. But in reality, the function was manipulated by the Structured Alpha portfolio managers, and provided no protection to Mutual Fund investors at all. Indeed, knowing that they had abandoned their duties and the stated investment strategy, Tournant and Bond-Nelson altered the stress test results in over 75 risk reports that were sent to multiple investors and investment consultants to make certain Structured Alpha Funds appear less vulnerable to changes in the market and volatility. Tournant and Bond-Nelson often simply changed the digits generated by the IDS reports, or divided stress result figures in half, specifically to make it appear that the Funds would lose less money when the market declined significantly or when volatility spiked. For example, in one instance, Bond-Nelson reduced a projected return of -30.82% under one of the scenarios analyzed in the report by half, whereas on another occasion, Bond-Nelson reduced a projected return of -30.95% in a scenario by an even 20%, to -10.95%. These alterations

dramatically reduced the apparent risk of the portfolio in crash scenarios, and were falsely presented to investors as IDS's independent analysis.

55. Similarly, Tournant and Bond-Nelson changed portfolio "Greeks"—financial metrics showing the sensitivity of the portfolio to various market changes—in order to make the Structured Alpha Funds appear less risky, and sent those altered numbers to investors directly, as well as to investment consultants that advised Mutual Fund investors. And Tournant and Taylor likewise altered "EV sheets"—which contained predictions of how Structured Alpha portfolio would perform if the market moved up or down by specific amounts, and were shared with investors at meetings—to decrease projected losses that were seen as being too large—again understating and misleading investors about the risks facing the portfolio.

**C. AGI US Failed To Sufficiently Oversee The Structured Alpha Funds**

56. In stark contrast to previous assurances that the Structured Alpha Funds were protected by the independent oversight of the broader AGI US organization, AGI US also admitted that it failed to conduct meaningful oversight of the Structured Alpha Funds.

57. Critically, as set forth above, Structured Alpha investors were led to believe that the broader AGI US organization would perform a separate and independent risk control function ensuring that the Structured Alpha Funds were being managed consistent with their guidelines and agreed risk practices. For example, AGI US assured investors that risk was being "continuously managed and monitored at both the portfolio level by the investment team and at the firm level"—i.e., by AGI US. AGI US further represented that, in addition to risk monitoring and management by the portfolio management team, its Enterprise Risk Management, Compliance, and Legal departments operated as a second line of defense, and its Internal Audit function as a third line of defense, against risk management failures.

58. However, AGI US failed to exercise any meaningful control over portfolio risks and investor communications. For example, no one in AGI US's control function monitored the Structured Alpha Funds' adherence to the hedging strategies that were promised to investors, and AGI US did not review the Structured Alpha team's communications with existing investors. As a result, AGI US failed to identify and prevent the Structured Alpha Funds' departures from their agreed mandates, as well as the Structured Alpha portfolio management group's fraudulent communications with investors.

59. Further, AGI US failed to monitor the Structured Alpha Funds' hedging or portfolio "Greeks," which would have revealed that the portfolios were exposed to substantial risks in the event of significant market declines or volatility increases. Similarly, AGI US failed to conduct stress testing for declines other than overnight declines, meaning that there was no analysis performed of portfolio risks in connection with multi-day or multi-week declines like those that occurred in February and March 2020.

60. In addition, AGI US conducted an internal audit in 2017 that identified several "red flags" that could have revealed that the Structured Alpha portfolio management was engaged in fraudulent practices—but no significant follow-up was conducted. For example, while the internal audit identified that Structured Alpha Fund pitch books contained inaccurate risk metrics, it did not result in any review of investor communications by anyone outside of the Structured Alpha team. Further, AGI US failed to enforce compliance with capacity limits for certain Structured Alpha Funds that were implemented for risk control purposes, instead permitting Tournant to essentially exercise his own discretion in determining the capacity of the funds.

### D. AGI US And The Structured Alpha Portfolio Managers Profited From Their Misconduct

61. AGI US and the Structured Alpha portfolio managers profited handsomely from the misrepresentations about the Structured Alpha Funds. AGI US has admitted that, from 2016 to 2019, AGI US's Structured Products Group, which oversaw the Structured Alpha Funds, was responsible for approximately 25% of AGI US's revenue—which amounted to hundreds of millions of dollars or more—and that its profits and the compensation paid to the Structured Alpha portfolio managers was inflated by the fraud perpetrated on investors. For his part, Tournant sat on AGI US's Executive Committee and was AGI US's highest or second-highest compensated employee, receiving personal compensation of more than $60 million from 2014 through 2020. From 2016 through 2020, Taylor received over $50 million in compensation and Bond-Nelson received over $10 million.

## VIII. THE COLLAPSE OF THE STRUCTURED ALPHA FUNDS

62. AGI US's use of cheaper and less effective hedges was a key driver of the Structured Alpha Mutual Funds' March 2020 losses.

63. The coronavirus began to be widely covered by major U.S. news outlets as early as January 8, 2020, with numerous news outlets—including the *Wall Street Journal*, *Bloomberg*, the *Associated Press*—publishing stories that day concerning a developing virus that had caused dozens of people in central China to fall ill. Then, on January 21, 2020, equity prices worldwide dropped due to fears that the coronavirus outbreak could slow global economic growth, and a man in Washington state was confirmed as the first case of coronavirus in the U.S.

64. By January 30, 2020, the World Health Organization (the "WHO") declared the coronavirus to be a public health emergency. Just days later, on February 3, 2020, Mohamed El-

Erian—Allianz SE's chief economist—appeared on CNBC to comment on the impact of the spread of the coronavirus. El-Erian stated:

> The coronavirus is different . . . it is big. It's going to paralyze China. It's going to cascade throughout the global economy. And, importantly, it cannot be countered . . . by central bank policies. So, I think we should pay more attention to this, and we should try and resist our inclination to buy the dip.

65. Indeed, the VIX, which measures the market's expectations of volatility based on the S&P 500—and which increases in a market downturn—was reaching rarely seen highs of 40 at the end of February 2020 and leading into March 2020. In other words, the market conditions leading into March 2020 resembled those where the hedges AGI US promised investors were needed most.

66. Unfortunately for investors, as set forth above, AGI US had failed to employ any meaningful hedging positions. Rather than having positions that would protect investors in the event of a market downturn, as AGI US was required to maintain, the Structured Alpha Funds were not hedged against a normal market decline, much less a major drawdown amid continuing volatility. This was particularly egregious given that the Structured Alpha Funds' positions in volatility options would <u>decline</u> in value if there was an increase in volatility, and contradicted AGI US's assurances that the Structured Alpha Funds would be "non-directional" and hedged against volatility and equity market declines.

67. AGI US's positioning of the Structured Alpha Funds caused the funds to incur catastrophic losses as these dynamics played out in the markets in February and March 2020. As AGI US has admitted, the Structured Alpha Funds lost billions of dollars in value as a result of the Structured Product Group's misconduct—with investors in the Structured Alpha Mutual Funds losing hundreds of millions of dollars as a result of AGI US's misconduct. For example, from year-end 2019 through April 1, 2020, the PerformanceFee Equity Fund lost approximately 34% of

its value, and the Structured Return Fund lost approximately 59% of its value. As set forth in the Tournant Indictment, "investors were exposed to these losses because they had been deprived of truthful information about the riskiness of their investments—information that would have caused at least certain investors to redeem their investments, or to never invest in the first place."

68. AGI US has admitted that its failure to appropriately hedge the portfolios caused investor losses. As AGI US admitted in its guilty plea, its "further out-of-the-money hedges were . . . less protective in the event of a market downturn" than the hedges that were promised to investors. As set forth in the SEC Complaint, as the Structured Alpha Funds were collapsing on March 16, 2020 (and after severe declines in the market that would have brought deep out-of-the-money strikes closer to market level), Bond-Nelson informed AGI US Structured Product Specialist Jeff Sheran (referred to in the AGI US Information as "Product Specialist-1") what the actual strike prices for the layer of hedges in the portfolio were. Sheran responded: "22% to 55% OTM [out-of-the-money]. Jesus." And during a Structured Return investor call on April 9, 2020, Sheran told investors that the Structured Return Fund's "disappointing results" were partially attributable to "the weaker-than-expected price appreciation of our hedging positions." In fact, the hedges being so far out-of-the-money was one of the key reasons why they failed to appreciate in price—and thus failed to provide the protection promised to investors—during the March 2020 market crash.

69. Mutual Fund analysts and others that had regularly communicated with Tournant, Taylor and Bond-Nelson also noted the failure of hedging to protect the Mutual Funds. For example, on April 8, 2020, an analyst from Morningstar noted that the Structured Return Fund was supposed to "maintain[] a constant hedge against large equity market selloffs, which were expected

to soften the blow during a sudden market crash," but that those efforts had failed, leading to "disastrous events during the first few weeks in March":

> Although we had previously noted this strategy's robust risk management, it suffered inordinate losses when market volatility shot up in February and March, prompting concerns regarding the strategy's execution. . . . [I]t traded a combination of S&P 500 options designed to capture the equity insurance risk premium (the difference between expected and realized volatility) while also providing constant protection against steep equity market declines by holding deep out-of-the money put options in greater quantity than short-volatility contracts. This hedging layer did not shield the rest of the portfolio as expected in March. . . . The previous report noted that complex options strategies like this one can experience sharp losses when realized volatility spikes. These concerns were mitigated by this team's focus on risk management. However, the recent market sell-off exposed a weakness in the strategy that can result in sizable left tail risk, or huge losses relative to its modest return target of 4%-6% per year. . . . The potential risk of substantial losses during quick and severe market drops is a common feature among put writing strategies like this one that aim to harvest the volatility risk premium (the difference between realized and implied volatility). However, the team assuaged these concerns by incorporating laddered put hedges designed to protect against a market crash, and it had a successful track record of navigating prior stressed market environments. Unfortunately, these puts options did not provide protection in the market sell-off, exposing a serious weakness in the strategy.

## IX. AGI US FURTHER DECEIVES INVESTORS ABOUT THE REASONS FOR THE MUTUAL FUNDS' LOSSES

70. Following the disastrous losses the Mutual Fund investors incurred in March 2020, AGI US was put on direct notice of the misconduct that caused the Structured Alpha losses and that the strategy had not worked as intended. As AGI US has admitted, it learned in March 2020 that the Structured Products Group had altered risk reports sent to certain Structured Alpha investors. But rather than take steps to protect Mutual Fund investors after learning of this alarming fact, AGI US made a series of misrepresentations to conceal the truth about how and why the Structured Alpha strategy represented to Mutual Fund investors had failed.

71. For example, on April 9, 2020, AGI US held a call for investors in the Structured Return Fund to discuss the recent disastrous results. During the call, Structured Alpha Product

Specialist Jeff Sheran falsely claimed that AGI US "had in place our typical ladder of hedging positions" without revealing that those hedges were further out-of-the-money than had been promised. Indeed, far from "typical," when Sheran was told what the actual hedge positions were following the March 2020 crash, he was incredulous. Specifically, after the market had declined significantly (meaning the hedges should have been much closer to being "in-the-money"), Sheran learned that the hedges were still "22% to 55% OTM [out-of-the-money]. Jesus."

72. Further, after discovering that AGI US Structured Products Group had sent falsified risk reports to Structured Alpha investors, AGI US commissioned a memorandum that purported to exculpate AGI US and the Structured Alpha portfolio management team for the losses. Specifically, in July 2020, AGI US published a memorandum (referred to herein as the "July Defense") which it made available to the Structured Alpha Mutual Fund investors that supposedly reported on AGI US's post-crash "analysis to better understand how the Portfolio's investment and risk management processes operated." The July Defense discussed AGI US's risk management, including specifically its risk management "for U.S. registered mutual funds"—i.e., the Structured Alpha Mutual Funds. AGI US falsely asserted that "the Portfolio was at all times managed to its alpha targets and in accordance with its design, and as disclosed to and evaluated by our investors and their consultants," and that the Structured Alpha Funds "[had] in place protections and processes designed to offset certain of the risk inherent in earning alpha by selling options." It concluded that the Structured Alpha Funds' "losses were not the result of any failure in the Portfolio's investment strategy or risk management processes."

73. These representations were false. Even as AGI US issued these facially robust defenses of its and the Structured Alpha team's conduct, internally, AGI US employees scoffed at

the idea that the Structured Alpha Funds' performance was explained in the way AGI US described.

74. Indeed, AGI US has now admitted that it learned in March 2020 that the Structured Alpha Products Group had falsified risk reports that were sent to Structured Alpha investors. In fact, AGI US has admitted that "[m]ultiple [AGI US] employees within the Structured Products Group . . . were aware that Tournant and Bond-Nelson were altering numbers on certain reports before sending them to investors," and it was thus known that the portfolio managers responsible for Structured Alpha had manipulated data provided by AGI US's own systems.

75. But this was not the first time AGI US learned that the Structured Alpha Products Group had provided false information to investors. In fact, AGI US had known for years that it failed to ensure accurate disclosures to investors. In connection with its plea agreement, AGI US admitted that a 2017 internal audit revealed that Structured Alpha pitch books contained inaccuracies that "highlighted the need to thoroughly review marketing materials to ensure that the disclosure language accurately reflect[s] the on-going investment process"—but that "Internal Audit had assigned that review to the product specialists within the Structured Products Group," rather than conducting an independent review. Moreover, AGI US admitted to "significant gaps and weaknesses in [its] controls as they related to the Funds," including that:

- "[N]o one in the control function sought to verify that Tournant and his colleagues were adhering to the hedging strategies they represented they would follow . . . despite the fact that the materials containing these representations were reviewed and approved by the [AGI US] Legal and Compliance departments";
- "[C]lient reporting and communications with existing clients about existing products were not required to be reviewed by Compliance";
- "[N]either ERM [enterprise risk management] nor any other independent function was tasked with monitoring whether [AGI US] . . . was adhering to its representations to investors in the management of the Funds"; and

- "[N]o risk or compliance personnel were responsible for confirming that [AGI US] was maintaining hedges for the funds within the -10 to -25% range that was represented to investors."

76. Thus, by March 2020, AGI US knew that: (i) Structured Alpha marketing materials had contained inaccuracies about risks as far back as 2017; (ii) no one outside of the Structured Products Group was exercising any meaningful control to ensure that investor communications were materially accurate or that the Structured Alpha Funds were being managed consistent with investor representations; and (iii) Tournant and others within the Structured Products Group—the only group who had exercised any oversight over communications with Structured Alpha investors—had, in fact, provided investors with falsified reporting. AGI US also obviously had access to data and other sources that confirmed what AGI US would later admit—that the Structured Alpha portfolio managers had, for years, been positioning the portfolio's hedging much farther out-of-the-money than had been told to investors.

77. However, rather than accurately disclosing these facts and the facts about their misrepresentations, AGI US and the Trustee Defendants issued the July Defense—in effect affirmatively and falsely denying responsibility for Mutual Fund investors' losses—and determined to liquidate the Mutual Funds.

78. Specifically, on June 11, 2020, the U.S. Equity Hedged Fund was liquidated and dissolved; on June 24, 2020, the PerformanceFee Fixed Income Fund was liquidated and dissolved; and on December 14, 2020, the PerformanceFee Equity Fund and the Structured Return Fund were liquidated and dissolved.

## X. DEFENDANTS' MATERIALLY FALSE AND MISLEADING STATEMENTS

79. In a video presentation featured on AGI US's website until at least the summer of 2020, Tournant touted the Structured Alpha Funds' non-directional approach. Similarly, in an interview that was featured on AGI US's website until at least the summer of 2020, Tournant spoke

at length about the risk-mitigating features that were supposed to be inherent in AGI US's investment strategies for the Structured Alpha Funds, explaining that "some [of the Structured Alpha Funds' positions] will make money if the market goes down"—reflecting "our objective . . . never to guess the direction of the market [and] not be dependent on the direction of the market."

80. These statements were materially false and misleading. It was materially false and misleading to state that the Mutual Funds and the other Structured Alpha Funds' positions "will make money if the market goes down" when the Mutual Funds and other Structured Alpha Funds hedging positions were positioned so far out-of-the-money that they would not provide any meaningful protection in market crash scenarios.

81. Similarly, it was materially false and misleading to assert that the Mutual Funds and other Structured Alpha Funds were being managed to an "objective . . . never to guess the direction of the market [and] not be dependent on the direction of the market" when they were being positioned such that their performance was highly dependent on the direction of the market by virtue of AGI US's decision to shift the hedging positions so far out-of-the-money that the hedges would not meaningfully appreciate in the event of a severe market downturn.

82. During a January 2017 interview for *BrightTALK* about the Structured Return Fund, Peter Pilavachi, an AGI US Product Specialist, explained:

> The options strategies work as follows. What we do is that we go long and short options at the same time. The idea is that the long options protect our portfolio, whereas our short option position help[s] us generate yield that goes towards our performance. . . . What is clearly our differentiating factor is that we're long options, on the one hand, and we're short options, on the on the other hand. Again, we are long options to hedge our portfolio on the downside, and we're short options to generate yield at the same time—and the important word in the sentence is 'at the same time, at all times.' I think that really is what differentiates us, this long and short. The pitfalls with this strategy is always about risk. We really see ourselves as risk managers first. As managers of a volatility strategy, we want to be protected in case the market goes down. . . . Risk control for us is a major part of the way we manage our assets. We have several ways of controlling our risks,

> but the two major ones is [sic] that we long puts to protect our portfolio at all times—that's probably the most important way—the second [inaudible] of that is that, if the market goes against us, we will systematically restructure, we'll never let our losses run.

83. These statements were materially false and misleading. It was materially false and mislead to assert that "the long options protect our portfolio," that "we are long options to hedge our portfolio to the downside," and that "the most important way" AGI US "control[ed] our risks" with respect to the Structured Return Fund was to "long puts to protect our portfolio at all times" when, in reality, AGI US was employing long put hedges that were so far out-of-the-money that they failed to provide any meaningful protection to the Structured Return Fund. Similarly, it was materially false and misleading to assert that "[w]e really see ourselves as risk managers first" and "[r]isk control for us is a major part of the way we manage our assets" when, in reality, AGI US was failing to exercise meaningful risk controls over the positioning of the Structured Return Fund.

84. On January 31, 2017, the Allianz Trust filed with the SEC on Form N-1A (the "Structured Return and U.S. Equity Hedged 2017 Registration Statement") an Allianz Multi-Strategy Funds Prospectus containing information concerning the Structured Return Fund and the U.S. Equity Hedged Fund (the "Structured Return and U.S. Equity Hedged 2017 Prospectus").

85. With respect to the Structured Return Fund, the Structured Return and U.S. Equity Hedged 2017 Prospectus stated that "the Fund's option positions are expected to generate income for the Fund, while significantly limiting the Fund's exposure to broader securities market movements. The Fund seeks to generate steady, risk-managed returns that are generally independent of market conditions."

86. These statements were repeated in each effective registration statement and prospectus for the Structured Return Fund.

87. These statements were materially false and misleading and omitted material facts. It was materially false and misleading to state that "the Fund's option positions" were "expected to . . . significantly limit[] the Fund's exposure to broader securities market movements" because the Structured Products Group was not positioning the hedges and other options positions for the Structured Return Fund in a manner that remotely (let alone significantly) limited its "exposure to broader securities market movements." Indeed, as set forth above, the hedges of the Structured Return Fund and the other Structured Alpha Funds were positioned far out-of-the-money in order to reduce costs, despite the fact that this positioning rendered them wholly unprotective.

88. Similarly, it was materially false and misleading to assert that the Structured Return Fund "s[ought] to generate steady, risk-managed returns that are generally independent of market conditions" when the hedges that were supposed to protect the Structured Return Fund from market crashes were purposely moved farther out-of-the-money than promised, rendering them unprotective, and when AGI US was failing to make even basic risk management efforts with respect to the Structured Return Fund and the other Structured Alpha Funds.

89. With respect to the U.S. Equity Hedged Fund, the Structured Return and U.S. Equity Hedged 2017 Prospectus stated:

> The Fund seeks capital appreciation, with added emphasis on the protection of capital during unfavorable market conditions. . . . [T]he Fund employs a strategy of investing in exchange-traded options or FLEX options (*i.e.*, listed options that are traded on an exchange, but with customized strike prices and expiration dates) that, when paired with the equity portfolio, are intended to promote the protection of capital during unfavorable market conditions. . . . The Fund will utilize (buy) equity index put options (long puts) on U.S. equity indexes with the purpose of protecting the Fund from a significant market decline while limiting the cost and interference of this "protection," and will write (sell) equity index call options (short calls) on U.S. equity indexes to offset some or all of the cost of the put options.. . . The long puts are designed to significantly protect the downside of the Fund's long equity portfolio, which means that the notional value may be roughly equal to or may significantly exceed the full value of the Fund's long equity portfolio. . . . In pursuing the Index Option Strategy, the Fund generally will not

> be able to offset the full cost of the "protection" it is seeking and must keep significant cash and cash equivalents available, and therefore the Fund may underperform the S&P 500 Index during periods of market increases and slight market decreases.

90. These statements were repeated in each effective registration statement and prospectus for the U.S. Equity Hedged Fund.

91. These statements were materially false and misleading. It was materially false and misleading to assert that the U.S. Equity Hedged Fund had an "emphasis on the protection of capital during unfavorable market conditions," employed a strategy of investing in options that was "intended to promote the protection of capital during unfavorable market conditions," "[t]he Fund will utilize (buy) equity index put options (long puts) on U.S. equity indexes with the purpose of protecting the Fund from a significant market decline," and "[t]he long puts are designed to significantly protect the downside of the Fund's long equity portfolio," when, in reality, the U.S. Equity Hedged Fund and the other Structured Alpha Funds' long put positions were being moved so far out-of-the-money that they provided no meaningful protection to the portfolio in the event of a market crash.

92. In addition, it was materially misleading to assert that "the Fund generally will not be able to offset the full cost of the 'protection' it is seeking," when, in reality, AGI US was purposely utilizing long puts that were too far out-of-the-money to actually be protective precisely because they were cheaper than the long puts they promised to employ would have been.

93. On December 13, 2017, the Allianz Trust filed with the SEC on Form N-1A (the "PerformanceFee Funds 2017 Registration Statement") an Allianz Multi-Strategy Funds Prospectus containing information concerning the PerformanceFee Funds (the "PerformanceFee Funds 2017 Prospectus," and, together with the Structured Return and U.S. Equity Hedged 2017 Registration Statement, the Structured Return and U.S. Equity Hedged 2017 Prospectus, the

PerformanceFee Funds 2017 Registration Statement, subsequent effective registration statements and prospectuses for the Mutual Funds, the "Offering Documents," and together with the other communications referenced in Sections VI, IX, and X herein, the "Offering Communications").

94. With respect to each of the PerformanceFee Funds, the PerformanceFee Funds 2017 Prospectus stated:

> The Fund's option overlay strategy consists primarily of three option position types : . . (i) "range-bound" spreads, (ii) "directional" spreads and (iii) a "hedging" position type. . . . The option portfolio's hedging positions typically consist of long out-of-the- money puts that are intended primarily to protect the option portfolio against short-term market dislocations. . . . The Fund's portfolio managers generally seek to optimize the Fund's option overlay strategy based on considerations that include . . . structural risk protections[.]

95. These statements were repeated in each effective registration statement and prospectus for the PerformanceFee Funds.

96. These statements were materially false and misleading. It was materially misleading to state that a "'hedging' position type" was one of the components of the "options overlay strategy" when the hedging positions implemented in connection with the PerformanceFee Funds and other Structured Alpha Funds were not designed to, and did not, serve a true hedging purpose because they were so far out-of-the-money.

97. Similarly, it was materially false and misleading to assert that the PerformanceFee Funds' "hedging positions" were "intended primarily to protect the option portfolio against short-term market dislocations" when, in reality, the PerformanceFee Funds' hedging positions—like those of the other Structured Alpha Funds—were not implemented consistent with an intent to protect the portfolios at all, but were instead positioned so far out-of-the-money as to be useless as protection because such positioning was cheaper and implementing positions that were actually protective was deemed too expensive.

98. It was also materially false and misleading to assert that each PerformanceFee Fund's portfolio managers "s[ought] to optimize the Fund's option overlay strategy based on considerations" of "structural risk protections" when, in fact, the portfolio managers abandoned structural risk protections, in the form of the hedges that were promised to investors in the PerformanceFee Funds and other Structured Alpha Funds, in order to reduce costs.

## XI. CLASS ACTION ALLEGATIONS

99. Plaintiffs bring this action as a class action pursuant to CPLR Article 9, on behalf of a class consisting of all those who purchased or otherwise acquired an interest in the shares of the Structured Return Fund, the U.S. Equity Hedged Fund, the PerformanceFee Equity Fund, and/or the PerformanceFee Fixed Income Fund pursuant or traceable to, or whose investments were otherwise solicited through, the Offering Communications. Excluded from the Class are Defendants and their affiliates, subsidiaries, directors, officers, and members of their immediate families.

100. The members of the Class are so numerous that joinder of all members is impracticable. While the exact number of Class members is unknown to Plaintiffs and can only be ascertained through appropriate discovery, Plaintiffs believe that there are at least thousands of members of the Class given that, for example, the Structured Alpha Mutual Funds managed billions of dollars and were publicly available to retail investors. Class members may be readily ascertained from records in Defendants' possession, custody, or control.

101. Plaintiffs' claims are typical of Class members' claims, as all members of the Class were similarly affected by Defendants' wrongful conduct in violation of law as complained of herein.

102. Plaintiffs will fairly and adequately protect Class members' interests and have retained competent counsel experienced in class actions and investor rights litigation.

103. Common questions of law and fact exist as to all members in the Class and predominate over questions affecting only individual members. Among the questions of law and fact common to the Class are: (i) whether the Offering Communications were materially false and misleading under Section 11 and/or 12(a)(2) of the Securities Act; (ii) whether Defendants, or any of them, were sellers under Section 12(a)(2) of the Securities Act; (iii) whether Defendants, or any of them, are liable to Plaintiffs under Section 11, Section 12(a)(2), and/or Section 15 of the Securities Act; (iv) whether Plaintiffs and class members are entitled to rescission or rescissory damages; (v) whether damages incurred by Plaintiffs and the class were caused by Defendants' violations of the 1933 Act alleged herein; (vi) the amount of damage suffered by Plaintiffs and Class members; and (vii) whether the Plaintiffs and Class members are entitled to a reasonable award of attorneys' fees, interest and costs of suit.

104. A class action is superior to all other available methods for the fair and efficient adjudication of this action because joinder of all Class members is impracticable. Moreover, there will be no difficulty in the management of this action as a class action.

## XII. TOLLING

105. Plaintiffs and the proposed Class did not know and could not know the scope and true nature of AGI US's conduct, as outlined at length herein, until May 17, 2022, when it was disclosed that AGI US, Bond-Nelson, and Taylor had entered guilty pleas, the Tournant Indictment was unsealed, and the SEC filed a complaint against Tournant, Taylor, and Bond-Nelson and entered into settlements with AGI US, Taylor, and Bond-Nelson.

106. All applicable statutes of limitation have also been tolled by AGI US's knowing and active fraudulent concealment and denial of the facts alleged herein throughout the period relevant to this action, including its repeated denials and misrepresentations, including in its July

Defense, of the bases for the performance failures of, and losses suffered by, the portfolio used by AGI US across the Structured Alpha Mutual Funds, as outlined herein.

## XIII. CAUSES OF ACTION

### COUNT I

**Violations of Section 11 of the Securities Act**
**(Against Defendants Allianz Trust and Allianz Distributors)**

107. Plaintiffs reallege every allegation contained above as if fully alleged in this Count.

108. This Count does not sound in fraud. Plaintiffs need not allege or establish that any of the Defendants committed intentional or reckless misconduct or that any of the Defendants acted with scienter or fraudulent intent, which are not elements of a Section 11 claim. This Count is based solely on strict liability or negligence. This Count is based on Defendants' statutory liability for untrue and materially misleading statements or omissions in the Offering Documents.

109. Plaintiffs assert this Count pursuant to Section 11 of the Securities Act, 15 U.S.C. § 77k, on behalf of all members of the Class who purchased or otherwise acquired Mutual Fund shares pursuant to the Offering Documents, and who were damaged thereby, against Allianz Trust and Allianz Distributors.

110. As alleged above, the Offering Documents contained untrue statements and omissions of material fact concerning, among other things, the Mutual Funds' investment strategies.

111. As an issuer of the registered securities, Allianz Trust is strictly liable for the untrue statements of material fact and material omissions alleged in this Count.

112. Allianz Distributors is liable as an underwriter of the Mutual Funds. Allianz Distributors did not make a reasonable investigation or possess reasonable grounds for the belief that the statements contained in the Offering Documents were accurate and complete in all material

respects. Had it exercised reasonable care, it would have known of the material misstatements and omissions alleged in this Count. Class members did not know, nor in the exercise of reasonable diligence could they have known, that the Offering Documents contained untrue statements of material fact and omitted to state material facts required to be stated or necessary to make the statements identified above not misleading when they purchased or acquired the registered securities. As a direct and proximate result of the acts and omissions of the Defendants named in this Count in violation of the Securities Act, the Class suffered substantial damage in connection with its purchase of Mutual Fund shares sold pursuant to the Offering Documents.

113. This claim is brought within one year of discovery of the untrue statements and omissions in the Offering Documents and within three years of when the Mutual Fund shares were sold to the Class pursuant to the Offering Documents.

114. By reason of the foregoing, the Defendants named in this Count are liable under Section 11 of the Securities Act to members of the Class who purchased or otherwise acquired the securities sold pursuant to the Offering Documents.

## COUNT II

### Violations of Section 12(a)(2) of the Securities Act
### (Against AGI US, Allianz Trust, and Allianz Distributors)

115. Plaintiffs reallege every allegation contained above as if fully alleged in this Count.

116. This Count does not sound in fraud. Plaintiffs need not allege or establish that any of the Defendants committed intentional or reckless misconduct or that any of the Defendants acted with scienter or fraudulent intent, which are not elements of a Section 12(a)(2) claim. This Count is based solely on negligence. This Count is based on Defendants' statutory liability for untrue and materially misleading statements or omissions in the Offering Communications or in communications in connection with the sale of Mutual Fund shares.

117. This Count is brought pursuant to Section 12(a)(2) of the Securities Act, 15 U.S.C. § 77l(a)(2), on behalf of all members of the Class against all Defendants.

118. Allianz Trust was a statutory seller of Mutual Fund shares that were registered and sold pursuant to the Offering Communications. Allianz Trust also participated in the selection of Allianz Distributors as the underwriter, and sold, offered and/or solicited the sale of Mutual Fund shares pursuant to the Offering Communications. In sum, Allianz Trust was a seller, offeror, and/or solicitor of sales of the securities that were sold pursuant to the Offering Communications.

119. Allianz Distributors was a statutory seller of Mutual Fund shares that were registered and sold pursuant to the Offering Communications. By means of the Offering Communications, Allianz Distributors sold Mutual Fund shares to members of the Class. Allianz Distributors was, at all relevant times, motivated by its own financial interests. In sum, Allianz Distributors was a seller, offeror, and/or solicitor of sales of the Mutual Fund shares by means of the Offering Communications.

120. AGI US was a statutory seller and offeror of Mutual Fund shares that were registered and sold pursuant to the Offering Communications. AGI US, including through its employees or agents (such as Tournant, Taylor, Bond-Nelson, and/or members of the Structured Products Group), as set forth above, communicated with members of the Class to sell Mutual Fund shares to them pursuant to the Offering Communications. Specifically, among other things, AGI US, Tournant, Taylor, Bond-Nelson, and/or members of the Structured Products Group directly marketed Mutual Fund shares and solicited investments in the Mutual Funds from investors through marketing materials and sales literature, in-person meetings and/or phone or video calls, and created videos and other marketing materials that were intended to be used, and were used, to

solicit class members' investments in the Mutual Funds. In sum, AGI US was a seller, offeror, and/or solicitor of sales of the Mutual Fund shares by means of the Offering Communications.

121. The Mutual Funds operated as open-ended mutual funds wherein shares of the Mutual Funds could be purchased only from the Allianz Trust in continuous, open-ended offerings pursuant to the Mutual Funds' registration statements. There was no secondary market for the Mutual Funds' shares. Accordingly, each of AGI US, Allianz Trust, and Allianz Distributors was a statutory seller of the Mutual Fund shares.

122. The Offering Communications used to solicit purchases of the Mutual Funds contained untrue statements of material fact and omitted other facts necessary to make the statements not misleading, and failed to disclose material facts, as set forth herein. These statements include representations concerning, among other things, the Mutual Funds' investment strategies.

123. The Offering Communications containing untrue statements of material fact and omissions of facts necessary to make the statements not misleading that were not Offering Documents were (i) oral communications related to the offerings of the Mutual Funds, (ii) marketing and advertising materials subject to 17 C.F.R. § 230.482, and/or (iii) written communications related to the offerings of the Mutual Funds that did not satisfy the requirements of 17 C.F.R. § 230.498(d), including because such Offering Communications were not preceded or accompanied by a Summary Prospectus satisfying the requirements of 17 C.F.R. § 230.498(b). As AGI US admitted in connection with its criminal guilty plea, "the control functions at AGI US were not designed to, and did not, function to ensure that risk for the Structured Alpha Funds was being monitored in line with what investors had been told," "no one in the control function sought to verify that Tournant and his colleagues were adhering to the hedging strategies they represented

to investors they would follow," and "communications with existing clients about existing products were not required to be reviewed by Compliance."

124. This claim is brought within one year of discovery of the untrue statements and omissions in the Offering Communications and other communications and within three years of when the Mutual Fund shares were sold or offered to the Class pursuant to the Offering Communications.

125. By reason of the foregoing, Allianz Trust, Allianz Distributors, and AGI US are liable for violations of Section 12(a)(2) of the Securities Act to the members of the Class who purchased Mutual Fund shares pursuant to the Offering Communications, and who were damaged thereby.

## COUNT III

### Violations of Section 15 of the Securities Act (Against AGI US)

126. Plaintiffs reallege every allegation contained above as if fully alleged in this Count.

127. This Count does not sound in fraud. Plaintiffs need not allege or establish that AGI US committed intentional or reckless misconduct or acted with scienter or fraudulent intent, which are not elements of a Section 15 claim. This Count is based solely on negligence. This Count is brought against AGI US pursuant to Section 15 of the Securities Act, 15 U.S.C. § 77o, on behalf of all members of the Class.

128. AGI US was at all relevant times a controlling person of the Allianz Trust within the meaning of Section 15 of the Securities Act. AGI US participated at all relevant times in the operation and management of Allianz Trust, and conducted and participated, directly and indirectly, in the conduct of Allianz Trust's business affairs and in the disclosures in the Offering Communications alleged to have been materially false and misleading. Moreover, AGI US,

including through its employees or agents (such as Tournant, Taylor, Bond-Nelson, and/or members of the Structured Products Group), drafted the materially false and misleading statements in the Offering Communications alleged herein, and caused those statements to be included in the Offering Communications. AGI US had a duty to disseminate accurate and truthful information with respect to the Mutual Funds' investment strategies. Because of its position of control and authority, AGI US was able to, and did, control the contents of the Offering Communications, which included materially untrue financial information and omissions.

129. In addition, AGI US was at all relevant times a controlling person of Allianz Distributors within the meaning of Section 15 of the Securities Act. AGI US participated at all relevant times in the operation and management of Allianz Distributors, and conducted and participated, directly and indirectly, in the conduct of Allianz Distributors' business affairs.

130. By reason of the foregoing, AGI US is liable under Section 15 of the Securities Act to the same extent that Allianz Trust is liable under Sections 11 and 12(a)(2) of the Securities Act for the false and misleading statements in the Offering Communications, and AGI US is liable under Section 15 of the Securities Act to the same extent that Allianz Distributors is liable under Sections 11 and 12(a)(2) of the Securities Act for the false and misleading statements in the Offering Communications.

131. This claim is brought within one year of discovery of the untrue statements and omissions in the Offering Communications and within three years of when the Mutual Fund shares were sold or offered to the Class pursuant to the Offering Communications and the other false and misleading communications described above.

## XIV. PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for judgment and relief as follows:

A. Ordering that this action may be maintained as a class action and certifying Plaintiffs as the Class representatives.

B. Directing Defendants to account to Plaintiffs and the Class for their damages sustained because of the wrongs complained of herein.

C. Awarding compensatory, recission or rescissory damages to Plaintiffs and Class members.

D. Awarding other damages to Plaintiffs and the Class from Defendants on each Count as may be proved at trial.

E. Awarding Plaintiffs and the Class the costs of this action, including reasonable allowance for Plaintiffs' attorneys' fees; and

F. Granting such other and further relief in Plaintiffs' favor as this Court may deem just and proper.

## XV. JURY DEMAND

Plaintiffs demand a trial by jury on the causes of action asserted herein.

Dated: New York, New York
September 9, 2022

*/s/ Olimpio L. Squitieri*
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